

WASTE, FRAUD, ABUSE, AND MISMANAGEMENT

HEARINGS BEFORE THE TASK FORCE ON WELFARE OF THE COMMITTEE ON THE BUDGET HOUSE OF REPRESENTATIVES ONE HUNDRED SIXTH CONGRESS SECOND SESSION

HEARINGS HELD IN WASHINGTON, DC: JULY 19 AND
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Food Stamp Fraud: Why Trafficking Persists and What Can Be Done About It

WEDNESDAY, JULY 19, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
TASK FORCE ON WELFARE,
Washington, DC.

The Task Force met, pursuant to call, at 2:05 p.m., in room 210, Cannon House Office Building, Hon. Jim Nussle (chairman of the Task Force) presiding.

Members present: Representatives Nussle, Hoekstra, and Clayton.

Mr. NUSSLE. The Task Force will come to order. Thank you so much for bearing with us on the votes on the floor of the House. We apologize for any inconvenience that's given to our guests or our witnesses or any colleagues.

First I'd like to thank the ranking member for joining me in this hearing today, this discussion about the Food Stamp Program. My ranking member, Eva Clayton, is someone who I have had the opportunity to work with on this committee as well as on the Agriculture Committee. And she is probably one of the Congress' foremost leading advocates and authorities on Food and Nutrition Programs. And I am honored to have you sharing this discussion today.

This is not a partisan discussion. The Budget Committee is a committee that looks at macro issues, such as the expenditures of tax dollars. We have looked through the budget. There are a number of issues that we are looking at this year that have received reports from different agencies. We're looking through those to see what we can do in our effort to maintain fiscal discipline and budget oversight.

Food stamp trafficking is one of the major culprits that keep food stamps from providing daily nutrition needed so desperately by millions of infants and young children. In our hearing today, we'll address the current status of the ongoing problem with the Food Stamp Program.

We will also consider whether the data from the EBT, or electronic benefit transfer, system, now in place in most States, many States, has enabled USDA better access to the level of trafficking information and activity and how EBT data can better be used to control trafficking in the future.

Additionally, we hope to examine the effectiveness of the Department's efforts to control trafficking by imposing sanctions and prosecuting those who have abused the program through trafficking.

The Food Stamp Program was established to provide low-income households with coupons or electric benefits, electronic benefits, so they can be used to buy food at government-approved grocery stores and mobile vendors. Unfortunately, because food stamps are kind of a parallel currency in many parts of our country, they are subject to the kinds of fraud and misuse by beneficiaries, vendors, and others who may come in contact with them.

Today we are specifically looking into the fraud and abuse of the food stamp trafficking portion. Food stamp trafficking generally begins when vendors accept food stamps in exchange for cash at discounted rates.

According to a 1995 study by USDA, one that I remember when I was on the Agriculture Committee, USDA's Food and Nutrition Service said that about 815 million, or about 4 percent, of the food stamps issued were trafficked by about 9 percent of the authorized dealers in Fiscal Year 1993.

The study, which used data from a period when few States had begun to use EBTs to deliver food stamps, was until recently, really, the only measure that I am aware of about trafficking of food stamps.

More recently, a report by Food and Nutrition Service, dated March of this year but just released evidently just this past week, as I understand it, contends the trafficking has declined by 19 percent, or to about \$660 million a year between the period of 1996 to 1998.

It also reported a 24 percent decline in food stamps case load from 10.8 million households per month from 1993 to about 8 million per month in 1998, a 16 percent decline in the number of food stamp, retailers authorized to accept food stamps, and a 50 percent changeover from paper food stamps to EBT systems.

To date, the report's conclusions and methodology have not really been confirmed independently, but that will be part of the discussion I am sure today.

Joining us we have a number of witnesses. And, instead of individually introducing them, what I'd like to do is get to their testimony. First I'd like to recognize the ranking member for any comments that she would like to make at this time before we get to witnesses.

Mrs. CLAYTON. Thank you, Chairman Nussle. I want to thank you for organizing this hearing. I, too, want to compliment you on your sense of fairness and congeniality in making sure we have a full discussion of this issue.

Food stamp trafficking is more than a crime against this nation. Food stamp trafficking is a crime against children. It's a crime against families. It's a crime against the poor, the needy, the hungry. And that is why we must do all that we can to decrease and ultimately eliminate food stamp trafficking.

We are making progress. The amount of trafficking is declining. During the most recent 2 years, for which data is available, food stamp trafficking amounted to about \$600 million a year. That amount is roughly said to be 20 percent below the trafficking in 1993, which stood at \$815 million a year.

The rate of trafficking is also declining. During the same period, the amount of dollars trafficked compared to the benefit issued de-

clined by 8 percent from four cents on the dollar to three and a half cents on the dollar.

And, importantly, Mr. Chairman, according to the Department of Agriculture, the greatest reduction in the rate of trafficking came from those stores that are most likely to traffick. We are making progress. Yet, admittedly, we must do more.

Six hundred million dollars in trafficking is unacceptable. This amount of money needs to be used and is needed to feed families who need food.

Still, the progress we have experienced has been due, in part, to the fact that we have proposed legislation and approved in the Agriculture Committee and approved by Congress to end waste, fraud, and abuse in the Food Stamp Program.

We have made an effort to cut down on trafficking. One of the greatest strides this Congress has taken in this area is to mandate the conversion to electronic benefits transfer, EBT, system to end by the Fiscal Year 2002.

To date, 37 States have converted to EBT systems statewide. More than 70 percent of the food stamps issued are through EBT systems. Yet, Mr. Chairman, when we consider the cuts in funding for enforcement effort against food stamp waste, fraud, and abuse, it becomes clear why progress has not been as rapid as we would expect.

Over the past 5 years, the difference between the amount of funds requested for food stamp administration and those funds enacted has indeed been pronounced. Simply put, it makes little sense to challenge a giant with a rock. That fable may have worked in Biblical times, but it does not work in these times.

If we want to eliminate food stamp trafficking, we must put the necessary resources behind the effort, but, Mr. Chairman, there is another more compelling issue in this area that we cannot and we must not ignore.

Every day in America, despite welfare reform or perhaps, some would say, because of it, there are families who need food stamps to eat but do not receive that assistance. Every day in America, despite welfare reform or perhaps because of it, many go hungry.

There is evidence of hunger in 3.6 percent of all households in America. According to the report for Bread for the World entitled "Domestic Hunger and Poverty Facts," 31 million persons live in households that experience hunger or risk hunger. That number has represented one in every ten households in the United States, despite our great prosperity.

Many, too many, of the hungry are children. Close to four million children are hungry. Fourteen million children, 20 percent of the population, are said to live in homes that are called food-insecure homes. In food-insecure homes, meals are skipped. Sizes of meals are reduced.

Again, according to Bread for the World, some of those occupants really do not receive any food for a whole day or days. More than 10 percent of all households in America are said to be homes of food-insecure.

Because there is such hunger and such food insecurity, there is also infant mortality, growth stunting, iron deficiency, anemia, poor learning, and increased chances of disease. Because there is

this hunger and food insecurity, the poor are more likely to remain poor, the hungry more likely to remain hungry and the sick less likely to be well.

The harsh reality of our efforts to root out waste, fraud, and abuse—and food stamps is that in all too many instances—too many citizens who are eligible for food stamps, who need food stamps do not get the benefits.

Indeed, according to the Department of Agriculture, only two-thirds of those eligible for food stamps actually receive them. And since the rise to welfare reform movement, participation in food stamps has decreased by 33 percent. These declines may be seen good for waste, fraud, and abuse, but they have not been good for eligible children who need the food or for the poor families or for those who are hungry. And, most disturbing, these declines have included more of the poorest of the poor.

Those least able to feed themselves constitute most of the persons who no longer are receiving food stamps. Does it really serve our purposes to encourage the space to kick people off the food stamp roll by enticing space with a payment of 35 cents on the dollar for each recipient who no longer receives food stamps without regards of those who may be hungry and who are not served?

Should I be concerned that in my State of North Carolina, over the last 5-year period from 1993 to 1998, food stamp participation declined 103,000, from 630,000 to 520? What has happened to those thousands of persons who were then needy, are not needy? Should I assume they are no longer hungry? Then why are they no longer participating? Should we applaud the citizens of North Carolina or try to find out the extent of hunger?

Is it proper to praise the State of Texas, where the number of food stamp recipients was cut from \$2.7 million to \$1.4 million over a recent 5-year period? Two million Texans according to the Department of Agriculture have trouble consistently affording food and 950,000 of those suffer from outright hunger.

Should we applaud the State of Maryland that among the 50 States is responsible for closing food stamp operations at almost half of the nation's stores that have been closed? What's happening to the people who need to use their food stamps when, indeed, their neighborhood food store operation is no longer authorized and none to replace it? Worse, what happens in rural communities when the only store within miles of the distance are no longer authorized and none to replace it?

Over the recent 5-year period for which we have data, there has been a decline of 16 percent, from 210,000 stores nationwide to 117,000. Mr. Chairman, is our zeal to eliminate food stamp trafficking—and I count myself in that zeal—a tool to help or is it really an instrument that hurts? I repeat: Food stamp trafficking is unacceptable. And we must do everything to eliminate it. But we must be careful to keep the consequences of our efforts in mind.

There was a 24 percent decline in food stamp caseload over a recent 5-year period. How are those persons eating now, Mr. Chairman? Hunger is indeed a condition of poverty.

For more than three decades, the Food Stamp Program has been a cornerstone of America's fight against hunger and the first line of defense. And as we seek to eliminate food stamp trafficking, let

us be careful not to eliminate our fight against hunger. We must not produce unintended results denying hungry families and children food they so desperately need.

Again, I thank you. And I applaud the success we have thus far. I look forward to the testimony.

Mr. NUSSLE. I thank the gentle lady. We're just trying to organize now that we have yet more votes. Our job is interrupting our job. See how that works?

First of all, I ask unanimous consent that all members be given five legislative days to submit statements for the record. Without objection, so ordered. And the witnesses are allowed to—we'll submit your entire testimony for the record. And we would ask you to summarize.

What we would first like to do is to ask Mr. Viadero. He is the Inspector General for the Department of Agriculture. My understanding is you have a time constraint. Why don't we ask you to provide your testimony? We'll ask you some questions. And then we'll go to the rest of the panel.

So I'll turn it over to you. We'd ask if you can try and keep it within about 5 minutes. That would be great. Thank you.

Mr. VIADERO. Thank you, Mr. Chairman and Ms. Clayton. I appreciate the consideration given to me in time for this.

STATEMENT OF ROGER C. VIADERO, INSPECTOR GENERAL, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY LAWRENCE J. DYCKMAN, DIRECTOR, FOOD AND AGRICULTURE ISSUES, RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE; DARRELL HARTMAN, DIRECTOR OF SPECIAL OPERATIONS, OFFICE OF INSPECTOR GENERAL, TEXAS DEPARTMENT OF HUMAN SERVICES; AND SHIRLEY R. WATKINS, UNDER SECRETARY, FOOD, NUTRITION, AND CONSUMER SERVICES, U.S. DEPARTMENT OF AGRICULTURE

STATEMENT OF ROGER VIADERO

Mr. VIADERO. Good afternoon, Mr. Chairman and members of the Committee. We are pleased to be here today to testify on trafficking in the Food Stamp Program, a topic of considerable concern within my agency.

Before we begin, I would like to introduce members of my staff who are with me today: Mr. Gregory Seybold, Assistant Inspector General for Investigations; and Mr. James Ebbitt, Assistant Inspector General for Audit.

The Food Stamp Program continues to be our nation's primary nutritional safety net, with an excess of \$15.8 billion in benefits issued to an average of 18,200,000 people in Fiscal Year 1999. The huge size of this program and its vulnerability to fraud and abuse has caused the Office of Inspector General to continue to devote a significant portion of its total resources to the Food Stamp Program.

During 1999, we devoted approximately 80 investigative staff years to the food stamp trafficking and theft investigations, which is a drop of 70 staff years from 150 staff years in Fiscal 1996.

Also, in Fiscal 1999, we conducted 242 investigations and obtained 391 criminal convictions; whereas, in Fiscal 1996, we conducted 691 investigations, resulting in 593 convictions.

Although our resources have been limited, we continue to investigate a wide variety of food stamp trafficking activities. These investigations have targeted those who defrauded the program of benefits distributed through the electronic benefits transfer, EBT, system as well as those distributed as food stamp coupons.

These investigations also often uncovered complex criminal conspiracies involving individuals who use numerous legitimate and phony businesses to gather and redeem benefits. Those involved moved their trafficking operations from one authorized store to another, used the names of bogus owners for their stores, established counter-surveillance, and took other measures to avoid detection.

These individuals were also often found to be involved in other criminal activities, such as drug trafficking, thefts, burglary, armed robbery, illegal firearms trafficking, money-laundering, immigration fraud, and other violent crimes. I'll cover all of these topics of criminal investigations we have been conducting and update you on our Operation Talon initiative.

We categorize food stamp trafficking activities primarily in two categories: street trafficking and retail store trafficking. While much of the country has moved to EBT, many States are still using food coupons. This distribution system has been shown to be highly vulnerable to trafficking, and we continue to uncover immense frauds.

An example of such a case was recently completed in New York City. In this investigation, we uncovered a food stamp conspiracy involving 44 defendants in 3 boroughs of the city who fraudulently redeemed food stamps in excess of \$63 million at 40 authorized stores.

Much of the money used in food stamp trafficking was derived from drug trafficking. To promote the scheme and conceal the illegal source of funds, defendants moved money in bank accounts between stores and laundered large amounts of currency to accounts in such areas as Florida and Puerto Rico held in the name of the account holders who are truly and rightfully citizens of the Dominican Republic. This case has already resulted in 35 convictions, including 4 bank officials, and more are expected.

A recent example of another OIG investigation conducted with members of a Detroit, MI, task force led to the arrest and conviction of 18 members of a major narcotics and food stamp trafficking organization.

The head of the organization trafficked narcotics for more than 20 years in the area. He was seemingly untouchable until he mentioned that he was interested in buying food stamps, which brought my organization into the investigation.

During the course of the investigation, he purchased \$23,000 in food stamps directly from an undercover officer. He then sold narcotics to the officer and was arrested. However, after being arrested and released on bond, he was murdered gangland style along with his girlfriend. The rest of his organization was arrested and convicted for drug and food stamp trafficking.

My office has also continued to lead a special enforcement initiative known as Operation Talon, which targets individuals who are involved in food stamp fraud and wanted for other crimes.

Under this initiative, social service agencies match their food stamp recipient records with law enforcement agencies' fugitive felon warrants. The Office of Inspector General and other law enforcement officials then use the information to locate and apprehend the fugitives. As of July 12, 2000, Operation Talon has resulted in 6,360 arrests of fugitive felons in more than 70 metropolitan areas, including numerous violent and dangerous felons who were wanted for murder, child molestation, rape, and kidnapping.

I want to address the EBT system for distributing food stamp benefits and our efforts to combat trafficking in this area. We have observed a significant positive impact on trafficking in the Food Stamp Program as a result of EBT.

While paper coupons are generally not traceable to individual recipients, the EBT system records the date, time, amount, recipient, and store involved in each transaction. Our investigators can then analyze this information to document criminal violations and support criminal prosecutions.

As expected, EBT has dramatically reduced street trafficking in the Food Stamp Program. EBT benefits are less negotiable on the street and, thus, less likely to be used as a second currency. Such trafficking, however, does continue to a lesser degree and still requires my office's attention.

While EBT has eliminated many street traffickers, large-scale trafficking by retailers continues to be widespread. In a recent investigation in Houston, Texas, six family members were convicted of food stamp fraud, money-laundering, and conspiracy. Our investigation disclosed that these individuals illegally purchased and redeemed in excess of two million dollars in food stamp benefits via EBT.

In this scheme, recipients sold food stamp benefits for cash at two unauthorized storefronts, whose employees telephoned one of the authorized stores and gave the recipient's EBT card number, the recipient's confidential identification number, and the transaction amount to move funds to the individual retailer account.

Mr. Chairman, this concludes my statement. I thank you again for the opportunity to address this Committee. And I would be pleased to answer any questions you or other members of the Committee might have.

Mr. NUSSLE. I thank you for your testimony.

[The prepared statement of Roger Viadero follows:]

PREPARED STATEMENT OF ROGER C. VIADERO, INSPECTOR GENERAL, U.S.
DEPARTMENT OF AGRICULTURE

Good afternoon, Mr. Chairman, and members of the committee. We are pleased to be here today to testify on trafficking in the Food Stamp Program (FSP), a topic of considerable concern within my agency. Before we begin, I would like to introduce members of my staff who are here with me today: Gregory S. Seybold, Assistant Inspector General for Investigations; and James R. Ebbitt, Assistant Inspector General for Audit.

The FSP continues to be our nation's primary nutritional "safety net," with \$15.8 billion in benefits issued to an average 18.2 million people in fiscal year (FY) 1999. The huge size of this program and its vulnerability to fraud and abuse has caused the Office of Inspector General (OIG) to continue to devote a significant portion of

its total resources to work in FSP. In FY 1999, we committed roughly 39 percent of our investigative resources to combat fraud in the program and 9 percent of our audit resources to protect program integrity.

LIMITED RESOURCES

While we have committed a significant percentage of our special agents to combating trafficking in the program, the number of agents available for such assignments has declined significantly and steadily. During FY 1999, we devoted approximately 80 investigative staff years to food stamp trafficking and theft investigations. This was down from about 150 staff years in FY 1996, or a drop of nearly 50 percent. This decline was primarily a result of our shrinking staff—agents and auditors reduced by approximately 25 percent since 1993—and secondarily due to our shifting agents to investigations of criminal activities that threaten the safety and health of the public, the agricultural sector, and U.S. Department of Agriculture (USDA) employees. Such matters included investigations of meat packers who knowingly sold contaminated or unwholesome meat products to an unsuspecting public and smugglers who brought in tens of thousands of pounds of agricultural products that were infested with agricultural pests, as well as an increasing number of threats, assaults, and homicides involving USDA employees.

The substantial drop in resources that we have been able to devote to combating trafficking in FSP has led to corresponding drops in our numbers of investigations conducted and convictions obtained. In FY 1996, we conducted 691 food stamp trafficking and theft investigations, which resulted in 593 criminal convictions of individuals and businesses. In FY 1999, we conducted only 242 investigations and obtained 391 criminal convictions.

FOOD STAMP TRAFFICKING INVESTIGATIONS

With our limited resources we have continued to investigate a wide variety of food stamp trafficking activities. These investigations have targeted those who defrauded the program of benefits distributed through the Electronics Benefits Transfer (EBT) system, as well as those distributed as food stamp coupons, both of which are highly vulnerable to criminal activity. These investigations, as in past years, often uncovered complex, criminal conspiracies, involving dozens of individuals who used numerous legitimate and phony businesses to gather and redeem benefits. Those involved moved their trafficking operations from one authorized store to another, used the names of bogus owners for their stores, established counter surveillance and took other measures to avoid detection by law enforcement authorities. These individuals were also often found to be involved in other criminal activity, such as drug trafficking, thefts, and violent crimes. I will cover the types of criminal investigations we have been conducting, update you on our “Operation Talon” initiative, and briefly mention our audit work in this area.

STREET AND RETAILER TRAFFICKING

We categorize food stamp trafficking activities primarily into two categories: street trafficking and retail store trafficking. Street trafficking involves individuals who buy or barter food stamp benefits for cash or other nonfood items away from Food and Nutrition Service (FNS) authorized stores. These traffickers generally obtain benefits from recipients at a substantial discount of their face value, in exchange for cash, drugs, or other nonfood items, and then sell them to FNS-authorized store retailers who redeem the benefits at full value, or sell them to another retailer. As of September 30, 1999, 161,000 stores were authorized to receive and redeem food stamp benefits whether in the form of paper coupons or EBT cards. Both the street trafficker and retailer profit when they sell or redeem the benefits.

We further categorize trafficking activities into those that involve food coupons and EBT. While much of the country has moved to EBT, which I will discuss later, many States are still using food stamp coupons. This distribution system has been shown to be highly vulnerable to large-scale street-type and retailer trafficking, and we continue to uncover immense frauds.

An example of such a case was recently completed in New York City. In this investigation our investigators uncovered a food stamp conspiracy involving 44 defendants in 3 boroughs who fraudulently redeemed food stamps worth \$63 million at 40 authorized stores. Money used in the food stamp trafficking was derived from drug trafficking. In order to promote the scheme and conceal the illegal source of funds, defendants moved money in bank accounts between stores and laundered large amounts of currency to accounts in Puerto Rico and Florida, held in the name of

account holders in the Dominican Republic. This case has already resulted in 35 convictions, including four bank officials. More are expected.

Two other examples of cases are those recently completed in Illinois and Mississippi. An investigation in Chicago resulted in the indictment of a food storeowner and his brother for conspiring to fraudulently redeem more than \$1.2 million in food stamps over 10 months. The brothers opened eight bank accounts around Chicago and deposited the proceeds from illegally obtained food stamps that were received from other merchants and food storeowners in exchange for cash. A record analysis revealed that only approximately \$295,000 of the over \$1.2 million redeemed through the store resulted from legitimate sales. The owner, who fled the country prior to sentencing, is a fugitive. His brother was convicted and sentenced to serve 37 months in prison and ordered to pay restitution of \$1 million.

An investigation in Mississippi resulted in the sentencing of a storeowner to 4 years and 3 months in prison after his conviction for food stamp fraud, conspiracy, and witness tampering. He was also ordered to pay \$1.2 million in restitution. The individual had obtained several authorizations to accept and redeem food stamps in different names and at different locations, and with an accomplice, had illegally redeemed food stamps worth about \$1.3 million over a 21-month period. The investigation also disclosed that this individual offered a gang member \$10,000 cash to kill his accomplice who had become a Government witness against him. The accomplice pled guilty to food stamp trafficking and was sentenced to 6 months in prison.

OTHER CRIMINAL ACTIVITY

As is indicated by the investigations mentioned earlier, our special agents often establish that individuals involved in food stamp trafficking are also involved in a variety of other criminal activities. Such activities include drug trafficking, burglary, armed robbery, fencing of stolen property, illegal firearms trafficking, money laundering, and immigration fraud. Through these investigations, which are often worked with other law enforcement organizations, we are able to remove from society those who defraud its programs and endanger its citizens.

A recent example of such an OIG investigation, conducted with members of a Detroit, Michigan, task force, is that which led to the arrest and conviction of 18 members of an organization of a major narcotics and food stamp trafficker. The head of the organization had trafficked narcotics for over 20 years in the area and was seemingly "untouchable" until he mentioned that he was interested in buying food stamps, which brought OIG into the investigation. Prior to this time he had insulated himself from law enforcement by never conducting any drug deals himself, only through his lieutenants. During the course of the investigation he bought \$23,000 in food stamps directly from an undercover officer. He then sold narcotics to the officer, after which he was arrested. However, after being released on bond, he was murdered, gangland style, along with his girlfriend. The rest of his organization was arrested in a citywide sweep. Their convictions for drug and/or food stamp trafficking led to sentences that ranged from a maximum of life in prison without parole to a minimum of 5 months in prison. The owner of the authorized store who was involved pled guilty to food stamp and drug trafficking. He is currently a fugitive. The neutralization of this major drug trafficking enterprise significantly stemmed the flow of narcotics in the Detroit area.

Another OIG investigation, which we conducted with a task force in Indiana, resulted in the arrest and conviction of 14 individuals for their involvement in the theft and trafficking of \$728,000 in food stamps from 4 county welfare offices. Sentences ranged up to 20 years in prison, with \$1.1 million in restitution ordered. The investigation showed that street gang members stole the food stamps from county welfare offices and traded them for cocaine, marijuana, firearms, explosives, and cash.

Through another ongoing case we are currently working jointly with Immigration and Naturalization Service (INS) and Internal Revenue Service, we found that food stamps were trafficked in Rochester, New York, and then laundered through approximately 20 authorized grocery stores. This food stamp conspiracy was conducted to facilitate the smuggling and illegal entry of approximately 50 foreign nationals from Pakistan. The group was also involved in a marriage fraud scam and visa fraud. Thirty-six of 38 indicted individuals have, thus far, been arrested and another unindicted individual arrested. Ten other individuals have also been detained for INS violations.

My office has also continued to lead a special law enforcement initiative known as "Operation Talon," which targets individuals who are involved in food stamp fraud and wanted for other crimes. Under this initiative, OIG has been the intermediary between social service agencies across the country and State and local law

enforcement agencies. The social service agencies match their food stamp recipient records with law enforcement agencies' fugitive records. Information on fugitives is then shared with OIG and other law enforcement officials, who use it to locate and apprehend the fugitives. As of July 12, 2000, Operation Talon has resulted in 6,360 arrests of fugitive felons in more than 70 metropolitan areas nationwide. These fugitives included numerous violent and dangerous felons who were wanted for murder, child molestation, rape, and kidnapping.

EBT IMPLEMENTATION

I have briefly addressed food coupons trafficking and some of the other types of criminal activity associated with food stamp trafficking, now I want to address the EBT system for distributing food stamp benefits, and our efforts to combat trafficking in food stamp benefits distributed through EBT.

As you know, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, also known as Welfare Reform, mandated that all Food Stamp Program benefits be issued using an EBT system by 2002. States have rapidly moved in that direction. Whereas about 75 percent of the benefits were issued using paper food coupons in FY 1997, now about 74 percent of FSP benefits are issued using EBT. Almost three out of every four recipients receive their food stamp benefits via an EBT system. Per FNS, as of April 2000, 41 States and the District of Columbia use EBT systems. Thirty-seven of the systems have been implemented statewide, including the District of Columbia. The remaining States are in various stages of implementation, from planning, to putting out requests for proposals, to contract approval. Some of the States in this category, with average participation exceeding 250,000 people, are Indiana, Michigan, Mississippi, and Virginia. The two largest Food Stamp Program States are California and New York. California currently has two counties operating a pilot system and expects to award a statewide contract during 2000. The five boroughs of New York City are issuing benefits via EBT with the remainder of the State expected to be operational by 2001.

POSITIVE ASPECTS OF EBT

As EBT has been brought on-line across the country, we have observed a significant, positive impact on trafficking in the FSP. While paper food coupons are generally not traceable to individual recipients, the EBT system records the date, time, amount, recipient, and store involved in all benefit transactions. Our investigators manipulate this information to identify likely trafficking by authorized retailers and food stamp recipients. We also use the data to document criminal violations and then use the data in criminal prosecutions. In fact, we have been manipulating and using EBT data in our criminal investigations since our first EBT investigation in Reading, Pennsylvania, in 1991.

FNS has also developed its own EBT data analysis computer program for detecting potential fraudulent EBT activity, based on our original EBT trafficking identification computer program. The FNS system, known as the Anti-Fraud Locator Using EBT Retailer Transactions, or ALERT, is now on-line and available in all FNS and OIG regions. We use both ALERT and our own computer program in our investigations.

FNS is also using EBT data to disqualify violating retailers and State authorities are using information obtained from EBT records to disqualify large numbers of recipients who have sold their benefits. The number of individuals disqualified as a result of OIG investigative work has risen from fewer than 10 in FY 1994 to more than 10,000 since FY 1997, almost entirely as a result of EBT investigations.

INVESTIGATION OF EBT TRAFFICKERS

I am also pleased to report that implementation of EBT, as expected, has dramatically reduced street trafficking in FSP benefits. This has occurred because EBT benefits are less negotiable "on the street" and, thus, less likely to be used as a "second currency." Such trafficking, however, does continue to a lesser degree and still requires OIG attention. For example, investigations in Cleveland, Texas, resulted in the convictions of two individuals who exchanged "crack" cocaine for EBT food stamp benefits. The food stamp recipients who purchased "crack" cocaine from these individuals gave them their EBT cards and personal identification numbers, which allowed the traffickers to use the cards and their benefits. One subject was sentenced to 46 months in jail and the other to 18 months.

While EBT has eliminated many street traffickers, large-scale trafficking by retailers continues to be widespread. Again, those involved often traffic in immense

quantities of benefits, have large organizations, and often use sophisticated schemes to carry out the crimes and to conceal their illegal activities.

A recent investigation in Houston, Texas, is a good example of retailer trafficking in EBT benefits. The investigation resulted in the conviction of six family members for food stamp fraud, money laundering, and conspiracy. The 2-year long investigation disclosed that these individuals illegally purchased and redeemed in excess of \$2 million in food stamp benefits via EBT. In this scheme, recipients sold food stamp benefits for cash at two unauthorized storefronts, whose employees telephoned one of two authorized stores and gave the recipient's EBT card number, the recipient confidential identification number, and the transaction amount to employees at the authorized store. The employee at the authorized store then manually entered the information into the EBT access device to make it appear that the recipient had actually purchased groceries at that location. The six subjects were sentenced to prison terms ranging from 3¼ years to more than 8 years, and ordered to pay restitution of \$2 million.

In another case, the owners of a store pled guilty in Federal Court in Baltimore, MD, to fraud in EBT. The EBT records showed that during a 3-year period \$975,000 worth of benefits was redeemed through this store. However, bank records showed that nearly all of the funds deposited into the account were removed through checks written to cash or the owner, while only \$103,000 in checks was written to wholesale vendors. The total loss to the Government from 1995 to 1999 may have been over a million dollars. Both co-owners confessed to the crimes. One individual was sentenced to 21 months prison, the second to 5 months home detention. Both were ordered to pay \$500,000 each in restitution.

AUDITS OF EBT SYSTEMS

In addition to conducting investigations of trafficking, we have also taken a proactive role in attempting to limit fraudulent activities in these programs. My office has taken an active role in monitoring and reviewing EBT systems beginning in 1986 when we reviewed the Reading, Pennsylvania, EBT pilot project. We view our role as providing assurances to program managers that the systems are operating as intended, or reporting the problems that need to be addressed so that the systems operate properly. Reviewing EBT systems as they are implemented has been a high priority for us and remains so.

Of the 41 States currently operating systems, OIG has conducted reviews at 19, with reviews at 4 additional States and the District of Columbia in process. We have concentrated our limited resources on reviewing systems being implemented that will be issuing a larger volume of program benefits.

This concludes my statement, Mr. Chairman. I thank you again for the opportunity to address the Committee, and I would be pleased to answer any questions you or other members of the committee might have.

Mr. NUSSLE. Is it possible to totally eliminate trafficking within the Food Stamp Program? In your opinion, based on your experience, do you believe that it's possible to have a more dramatic decrease in this trafficking than what we have seen in the reports that have been provided to Congress?

Mr. VIADERO. In answer to the first part of the question, I don't think we can realistically eliminate it. But can we have a greater impact, a more significant impact? Can we get it down to less than half of what it is? I say definitely yes.

The issue here is the amount of resources we have and we're willing to put into this. My staff has been reduced by 24 percent in the last 5 years. I've had zero budget growth in the last 5 years. These are very intensive investigations. And as it stands right now on the EBT side, we very rarely open a case where the amount of food stamp benefit to the authorized store is not less than five times the amount of food sales.

So if an individual sells \$100 worth of food, we see \$500 worth of food stamp benefits being transacted there. Therefore, that's the only way we can investigate. We're only doing high-priority cases.

I'd like to do the simple, if you will, 50 to 100 thousand dollar cases. Those are just too many to handle. For that, we count on our

friends at the State level to pick up the void and at FNS to help us disqualify some of the stores.

We will say—and I think it should be understood from our point—this is a very valuable and very successful program. I have immediate family that have been on food stamps. It's a good program. We just have to get the rascals out of it.

Mr. NUSSLE. I think your sentiments are joined by this Committee that it is a valuable program providing food and nutrition.

One of the issues, one of the questions that I am curious about is in the area of enforcement. Do you find it at all difficult to convince people within the U.S. Attorney's Office to prosecute these kinds of cases?

I used to be a prosecutor. I did this at the State level. There are obviously State welfare types of cases involving the welfare system. They're not as interesting sometimes, as glamorous as some of the other cases that are obviously very pressing involving violence, involving drugs, involving some of the mandatory cases that come through.

Is that an issue, having a difficult time just convincing U.S. Attorneys and other prosecutors to prosecute these cases?

Mr. VIADERO. Mr. Chairman, what we see is a difference, district by district, in our ability to get these cases done. For instance, when we go into the Southern District of Florida, we don't have a great deal of success because of the prosecutive minimum. OK?

If we go to the Southern District of New York, we don't have any issues at all. The bulk of our cases in the New York metro area are prosecuted at the United States Attorney's Office.

The issue in Florida—and, again, it's a resource problem on the part of the United States Attorney—is that they're handling major drug trafficking cases and other interdiction issues with Customs. However, the Dade County District Attorney does prosecute all of our cases for us. Again, most of the people will end up on probation because the Dade County Jail is literally at 100 percent of capital offenders.

Mr. NUSSLE. Then my final question—and I have to run and vote, and I am going to turn this over to Mr. Hoekstra from Michigan—is on the issue of the EBT. Should we be doing more to push toward that system?

You seem to very directly intimate that one of the aspects of this is prosecution, which, of course, you're doing the best you can to do, but the other side of this is to move to a system that is a little bit more fraud-proof, such as EBT. Would that be your recommendation to this Committee?

Mr. VIADERO. Unequivocally so. EBT is the only way to go. It's the smart way. Actually, we're entering the Twenty-First Century. And we're slowly catching up to Twentieth Century technology.

Mr. HOEKSTRA [presiding]. Excuse me for just a minute—

Mr. VIADERO. Yes, sir.

Mr. HOEKSTRA [continuing]. I don't think either he or I expected this kind of a break at this point in time.

One of the comments that Jim wanted for the record were whether you were noting any trends in the kinds of trafficking cases that you were uncovering. Has the value of the stamps being trafficked

increased in the kinds of cases you are seeing relative to those in the past?

Mr. VIADERO. Based upon what we see, EBT gives us a finite amount because the computer records everything, as opposed to having to go out and do the old, if you will, gumshoe-type surveillance on traffickers in the street. What we see here, though, is the fraud is removed from the street, taken off the street, and put in a store, where it belongs. So, in essence, the crooks have taken care of the Paperwork Reduction Act for us.

The split on the street used to be the person trafficking benefits would historically get 50 cents on a dollar. Since the retailers now don't have to fill out any paperwork in an EBT system, the person trafficking their benefits in EBT gets up to 70 cents on a dollar.

Mr. HOEKSTRA. OK. And I think that is all that we need from you. We appreciate you being here. And my understanding is that you've got another commitment and you will be excused from the panel.

Mr. VIADERO. Thank you very much, Mr. Chairman.

Mr. HOEKSTRA. Good. Thank you for being here.

Mr. VIADERO. Yes, sir.

Mr. HOEKSTRA. Let me introduce the rest of the panel and welcome you here. Our next witness will be Lawrence Dyckman, who is Director, Food and Agricultural Issues, the General Accounting Office.

He will be followed by Darrell Hartman, who is the Director of Special Operations, Office of the Inspector General, Texas Department of Human Services. Welcome. Thank you for being here.

And our final witness will be Shirley Watkins, who is the Under Secretary, Food and Nutrition and Consumer Services of the U.S. Department of Agriculture.

Mr. Dyckman, we will begin with you. Thank you for being here.

Mr. DYCKMAN. It is a pleasure to be here, sir. Would you mind if I asked one of my colleagues, Ron Wood, to join me at the table?

Mr. HOEKSTRA. That would be fine.

Mr. DYCKMAN. Thank you. Mr. Wood is an Assistant Director. He has done much of the work we have done on food stamp trafficking.

STATEMENT OF LAWRENCE DYCKMAN

Mr. DYCKMAN. It really is a pleasure to be here today to present our observations on how to reduce trafficking of food stamp benefits. As you know, the Food Stamp Program, one of the nation's largest assistance programs for low-income Americans, provided \$16 billion in benefits to about 18 million recipients in 1999. Unfortunately, though, like many programs, it is susceptible to fraud, waste, and abuse.

Our testimony today will focus on three reports we have issued over the last several years. Two of them deal with store owners, and one of them deals with recipient trafficking.

In summary, we found that while USDA and its OIG have identified thousands of store owners of trafficked benefits, there are opportunities to identify additional store owners who are likely to be engaged in trafficking by more effectively using EBT data.

In this regard, under 1996 legislation, Federal agencies may use EBT data alone without the expense of conducting an undercover

investigation to take action against store owners violating the requirements of the Food Stamp Program.

However, we also found that even when store owners were assessed financial penalties for trafficking, they generally didn't pay. For example, from 1993 through 1998, USDA and the courts assessed or levied about \$78 million in financial penalties and interest against store owners for violating food stamp regulations, primarily for trafficking. However, they collected only \$11.5 million, or about 13 percent.

USDA wrote off as uncollectible another \$49 million, or 55 percent, of the total amount. According to agency officials, this small percentage of fines collected reflects the difficulties involved in collecting this type of debt. And this is true.

However, weaknesses in the agency's debt collection procedures and practices also contributed to low collections. We found that USDA had not consistently and aggressively collected debt, assessed interest on unpaid debt, written off uncollectible debt in a timely manner, or established procedures to identify the causes of delinquencies and develop countermeasures.

Now I would like to talk a little bit about recipient trafficking. Although EBT data has been available in varying degrees since 1993 to analyze food stamp transactions for trafficking, USDA has only recently taken steps to encourage States to target recipients engaged in this activity. As a result, we found that most States with EBT systems were not analyzing EBT data to identify potential traffickers.

Of the 29 States with statewide EBT systems as of April 1999, the last time we looked at this, only 4, Florida, Missouri, South Carolina, and Texas, independently analyzed their electronic databases to identify suspect recipients.

Additionally, since 1994, USDA's OIG has identified about 34,000 suspect traffickers in Maryland and provided this information to State officials. All five of these States have invested the resources to investigate suspect recipients and disqualified those that engaged in trafficking.

The proof is very simple. During 1998 and 1999, these five States were responsible for disqualifying about 99 percent of the 7,000 or so individuals nationwide who were removed from the Food Stamp Program for trafficking. Although not as aggressive, nine other States have investigated suspect recipients who were identified by other sources, such as USDA, through its efforts to disqualify store owners. And these States have disqualified some recipients engaged in trafficking. The remaining 15 States did not disqualify any recipients for trafficking during the 2-year period.

We have made a series of recommendations in these two reports to improve debt collection activities; to increase EBT analysis; and to help USDA and the States use EBT to identify traffickers, both recipients and store owners.

Basically, USDA agrees with the recommendations and has begun to take actions. We have not, unfortunately, had the time to evaluate how well these actions have played out.

We would be happy to answer any questions. That concludes my statement.

[The prepared statement of Lawrence Dyckman follows:]

PREPARED STATEMENT OF LARRY DYCKMAN, DIRECTOR, FOOD AND AGRICULTURE
ISSUES, U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and members of the Task Force, thank you for the opportunity to present our observations on how to reduce the improper trafficking of food stamp benefits—exchanging food stamps for cash or certain nonfood items. As you know, the Food Stamp Program, one of the nation's largest assistance programs for low-income Americans, provided \$16 billion in benefits to about 18 million recipients in 1999. And, like many programs, the Food Stamp Program is susceptible to fraud, waste, and abuse. When benefits are improperly exchanged for cash, the storeowner gives a recipient a discounted cash payment (often 50 cents on the dollar) for food stamp benefits. The storeowner then redeems the benefits at full face value from the government. Until the mid-1990's, most recipients were provided coupons to purchase food, but currently about 70 percent of all benefits are provided electronically through a card that works much like a debit card at the grocery checkout counter. All the transactions are recorded in databases that can be analyzed to identify trafficking. The U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS), in partnership with the States, administers the Food Stamp Program.

Our testimony today focuses on various aspects of the trafficking problem that we have addressed over the past 3 years.¹ In particular, we have reported on first, Federal efforts to identify storeowners who engage in trafficking, second, the amount of penalties assessed and collected against these storeowners, and third, the extent to which States with statewide electronic benefit transfer (EBT) systems are identifying and disqualifying recipients who engage in trafficking.

In summary, we found the following:

- FNS and USDA's Office of Inspector General (OIG) use a variety of databases to analyze transaction patterns to identify suspect traffickers. They then conduct costly and time-consuming investigations to confirm actual trafficking. While FNS and the OIG have identified thousands of storeowners who have trafficked benefits, there are opportunities to identify additional trafficking storeowners who are likely to be engaged in trafficking by more effectively using EBT data. Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Federal agencies may use EBT data alone, without the expense of conducting an uncover investigation, to take action against storeowners violating the requirements of the Food Stamp Program.

- Storeowners generally did not pay the financial penalties they were assessed for trafficking. For example, from 1993 through 1998, FNS and the courts assessed or levied about \$78 million in financial penalties and interest against storeowners for violating Food Stamp Program regulations, primarily for trafficking. However, they collected only \$11.5 million, or about 13 percent of the total penalties. FNS wrote off as uncollectible another \$49 million, or 55 percent of the total assessed or levied. The remaining debt was pending collection at the time of our review.

- Most States with statewide EBT systems were not analyzing EBT data to identify recipients who may have been trafficking food stamp benefits. Of the 29 States with statewide electronic benefit systems, as of April 1, 1999, only 4—Florida, Missouri, South Carolina, and Texas—independently analyzed their electronic databases to identify suspect recipients. Additionally, since 1994, USDA's OIG has identified about 34,000 suspected traffickers in Maryland and provided this information to that state. All five of these States invested the resources to investigate suspect recipients and disqualify those engaged in trafficking. During 1998 and 1999, these five States were responsible for disqualifying about 99 percent of the 6,873 individuals nationwide who were removed from the Food Stamp Program for trafficking.

In recent reports, we have recommended various ways that FNS can improve its debt collection activities and better use electronic data to identify suspected storeowner and recipient traffickers. We have also recommended that FNS use electronic data to routinely develop reliable estimates of the extent of trafficking and establish goals and strategies for reducing recipient trafficking on the basis of these estimates. Appendix I lists our recommendations and describes the actions FNS has taken to address them.

¹Food Stamp Program: Information on Trafficking Food Stamp Benefits (GAO/RCED-98-77, Mar. 26, 1998); Food Stamp Program: Storeowners Seldom Pay Financial Penalties Owed for Program Violations (GAO/RCED-99-91, May 11, 1999); and Food Stamp Program: Better Use of Electronic Data Could Result in Disqualifying More Recipients Who Traffic Benefits (GAO/RCED-00-61, Mar. 7, 2000).

BACKGROUND

FNS administers the Food Stamp Program in partnership with the states. It funds all of the program's food stamp benefits and about 50 percent of the states' administrative costs. FNS is primarily responsible for developing the program's policies and guidelines, authorizing retail food stores to participate in the program, and monitoring storeowners' compliance with the program's requirements. Its 58 field offices assess financial penalties against storeowners who violate program regulations.² Storeowners violate the program's requirements when they accept food stamps for nonfood items such as paper towels, accept food stamp benefits when they are not authorized to participate in the program, or traffick in food stamp benefits. The States are specifically responsible for investigating recipients alleged to be engaged in trafficking and for disqualifying those found trafficking.

According to a 1995 FNS study, about \$815 million, or about 4 percent of the food stamps issued, was trafficked at 9 percent of authorized retail stores during fiscal year 1993.³ The study found that most trafficking occurred in small grocery stores. Last week, FNS released an updated study.⁴ This study estimated that stores trafficked about \$660 million a year, or about 3½ cents of every dollar of food stamp benefits issued, and that most trafficking occurred in small stores. Our 1998 analysis of 432 trafficking cases found comparable results—most trafficking occurred in small stores. Data on the extent of trafficking between parties prior to reaching authorized retailers are unavailable.

In addition to determining the eligibility of individuals applying for food stamps, the States are responsible for investigating recipients alleged to be engaged in trafficking and for disqualifying those found trafficking. Typically, a recipient found guilty of trafficking is disqualified from the program for 1 year for the first offense, 2 years for the second offense, and permanently for the third offense or for trafficking an amount that exceeds \$500.⁵ To disqualify an individual from the program, the States often conduct costly, time-consuming investigations—interviews with the suspect, undercover observations of transactions, and a more detailed analysis of the recipient's shopping habits.

Recipients use food stamp coupons or an electronic benefit transfer card to pay for allowable foods. Food stamp electronic systems use the same electronic fund transfer technology that many grocery stores use for their debit card payment systems. After a food stamp recipient receives a card and a personal identification number, the recipient purchases food by authorizing the transfer of the food stamp benefits from a Federal account to a retailer's account. At the grocery checkout counter, the recipient's card is run through an electronic reader, and the recipient enters a personal identification number to access the food stamp account.

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, all States must implement EBT systems by October 1, 2002, unless USDA waives the requirement. Currently, 37 States and the District of Columbia have statewide EBT systems.

FEDERAL EFFORTS TO IDENTIFY STOREOWNERS WHO ENGAGE IN TRAFFICKING

FNS and USDA's OIG use a variety of sources, including EBT databases and USDA's fraud hotline, to analyze transaction patterns to identify suspect traffickers. This initial effort is generally followed up with costly and time-consuming investigations, including undercover investigations, to confirm actual trafficking. Through these efforts, FNS and the OIG have identified thousands of storeowners who have trafficked benefits. The OIG has reported that it spends about 50 percent of its investigative resources on addressing trafficking and oversight of the Food Stamp Program—the single largest program administered by USDA.

We found that FNS could have identified additional storeowners who violated program regulations if it more effectively used EBT data. For example, each month FNS prepares a list of hundreds of stores in each region that appear to be highly likely to be violating program regulations, such as trafficking. Two of the six FNS field offices we visited further analyzed the data and took administrative action to penalize offending storeowners. However, the four other FNS field offices were not

²Food stamp State agencies establish debts against program recipients to recover benefits they receive in excess of the level that was appropriate. According to FNS officials, debt owed by recipients is approximately 95 percent of the agency's accounts receivable.

³The Extent of Trafficking in the Food Stamp Program, FNS, Aug. 1995. This study analyzed data from the Store Investigation and Monitoring System database, which contains information on the stores suspected of trafficking.

⁴The Extent of Trafficking in the Food Stamp Program: An Update, FNS, Mar. 2000.

⁵In some States, trafficking can also be prosecuted in State courts.

sure what to do with the data. Moreover, the head of one of the field offices told us that 1 monthly report indicated that over 100 of the stores in her area were probably engaged in trafficking, but she lacked the resources to further analyze the data on any of these stores and take action against them. Further, FNS had no feedback system to inform headquarters of how many of the stores on the list of likely traffickers were actually reviewed in detail. Such information would enable headquarters officials to know the extent to which the listings were examined. At the time of our review, FNS had no assurance that the stores on the monthly lists were consistently reviewed.

FNS had made limited use of this information because it had not developed an effective plan for reviewing and acting upon the data, including designating responsible staff. FNS officials told us that they need more personnel to analyze the data on stores that are likely to be trafficking food stamp benefits. Greater use of EBT data would enable FNS to better leverage its enforcement resources. Moreover, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 permits FNS to use EBT data alone, without the expense of conducting an undercover investigation, to take action against storeowners violating the requirements of the Food Stamp Program.

To improve FNS field offices' use of EBT data, we recommended that FNS develop guidance for its field offices for use in reviewing EBT data to identify and assess penalties against storeowners who violate Food Stamp Program regulations. FNS agreed and has initiated corrective actions to implement the recommendation.

AMOUNT OF STOREOWNER FINANCIAL PENALTIES ASSESSED AND COLLECTED

We found that FNS almost always assessed penalties against storeowners when its investigations showed that storeowners had violated requirements of the Food Stamp Program. However, storeowners generally did not pay the financial penalties they were assessed for trafficking. For example, from 1993 through 1998, FNS and the courts assessed or levied about \$78 million in financial penalties and interest against storeowners for violating Food Stamp Program regulations, primarily for trafficking. However, they collected only \$11.5 million, or about 13 percent of the total penalties. FNS wrote off as uncollectible another \$49 million, or 55 percent of the total assessed or levied. The remaining debt was pending collection at the time of our review.

According to agency officials, this small percentage of fines collected (13 percent) reflects the difficulties involved in collecting this type of debt, such as problems in locating debtors as well as their refusal to pay.⁶ However, weaknesses in the agency's debt collection procedures and practices also contributed to low collections. For example, FNS has not consistently implemented Federal policies, practices, and procedures that are designed to ensure the effective management and collection of debt. FNS has not consistently and aggressively collected debt, assessed interest on unpaid debt, written off uncollectible debt in a timely manner, or established procedures to identify the causes of delinquencies and develop the correction actions needed.

To improve FNS' debt collection activities, we recommended that FNS develop the corrective actions needed to make its debt collection more effective. FNS agreed and has initiated corrective actions to implement the recommendation.

EXTENT TO WHICH STATES USE EBT SYSTEMS TO IDENTIFY AND DISQUALIFY RECIPIENTS WHO TRAFFICK

Of the 29 States with statewide electronic benefit systems, as of April 1, 1999, only 4—Florida, Missouri, South Carolina, and Texas—independently analyzed their electronic databases to identify suspect recipients. These States viewed this activity as essential to their efforts to improve the integrity of the Food Stamp Program. Additionally, since 1994, USDA's Office of Inspector General has identified about 34,000 suspected traffickers in Maryland and provided this information to that State.⁷ All five of these States relied upon the results of detailed analysis of EBT

⁶These problems are particularly acute for collecting debt from storeowners who were penalized for unauthorized participation in the Food Stamp Program. In these cases, FNS may not have information that would facilitate debt collection, such as Social Security numbers, because the storeowners never applied to FNS to become authorized retailers. Furthermore, FNS cannot use one of its tools for encouraging debt payment—threatening to remove the storeowner from the program—in these types of cases.

⁷The Office of Inspector General analyzes EBT data to generate a list of all suspect recipients associated with storeowners who have been convicted of trafficking. This list is more complete

databases to identify suspect recipients and invested the resources necessary to investigate these recipients and disqualify those engaged in trafficking. For example, for fiscal years 1998 and 1999, these five States were responsible for disqualifying about 99 percent of the 6,873 individuals nationwide who were removed from the Food Stamp Program for trafficking benefits. Although not as aggressive, nine other States investigated suspect recipients—identified by other sources, such as FNS through its efforts in disqualifying storeowners—and disqualified those who engaged in trafficking. The remaining 15 States did not disqualify any recipient for trafficking during the 2-year period.

Florida and Texas analyze their EBT data to identify stores likely to be engaged in trafficking and then identify likely trafficking recipients using those stores. As a result, Texas identified hundreds of recipients suspected of trafficking at stores identified as likely to be engaged in trafficking. On the other hand, FNS generally limits its identification of food stamp recipients to the few cases that it needs to support its actions against a storeowner. After recipients are identified as suspected traffickers, the States investigate to confirm whether trafficking actually occurred before disqualifying those found to be trafficking.

Other States take a different approach. For example, Missouri identifies suspect recipient traffickers by profiling all recipients in the EBT database without regard to specific stores. From January through August 1999, Missouri identified about 500 recipients suspected of trafficking food stamp benefits. Since 1994, Maryland has disqualified about 7,700 recipients out of about 34,000 referred by OIG as possible traffickers, including 3,000 during fiscal years 1998 and 1999. These referrals were associated with eight storeowners who were convicted for trafficking.

Of the 15 States that had not taken any action against trafficking recipients, 5 had received referrals of suspected recipients from FNS. According to officials in these States, they did not investigate suspect recipients because the investigations were time-consuming and costly and it was not cost-effective to do so. The officials in the five States that disqualified about 99 percent of all those removed from the program nationwide for trafficking agreed that acting against suspect traffickers was not cost-effective. However, these officials and FNS officials agree that identifying suspect recipients and disqualifying those who traffic is an essential activity for maintaining the integrity of the Food Stamp Program. They maintain that their efforts act as a deterrent by discouraging other recipients from engaging in trafficking. In this regard, FNS has established improving the integrity of the program as a major goal in complying with the principles of the Government Performance and Results Act of 1993 (Results Act).

Although EBT data have been available in varying degrees since 1993 to analyze food stamp transactions for trafficking, FNS has only recently taken steps to encourage the States to target recipients engaged in trafficking. In July 1999, FNS instructed its seven regional offices to prepare plans on how to work with States to best use the EBT data now available to identify, investigate, and disqualify trafficking recipients. We reviewed the seven draft plans that were developed and found that they were all different, but they generally included such activities as defining the Federal and State roles for identifying recipients suspected of trafficking and developing processes for routinely sharing information. All these plans provide that FNS would submit to the States the names of suspect recipients associated with storeowners disqualified from the program. However, States could target a more extensive list of suspect recipients for investigation. FNS' plans do not set goals for the number of recipients to be investigated and/or disqualified. Furthermore, none of the draft plans described how they contributed to FNS' overall effort to reduce trafficking. The FNS regions are just beginning to implement the plans.

In our March 2000 report, we reported that FNS was not able to measure the effectiveness of its or the states' efforts in reducing the overall level of trafficking because it lacked current, reliable information on the extent of trafficking. FNS' estimate, developed in 1995, used 1993 data and did not rely on EBT data. With the introduction of EBT systems in 1993, FNS has an important tool for developing current estimates of the extent of trafficking at the local, State, and national levels. Using these estimates, FNS could establish goals for reducing trafficking on the basis, for example, of the value of benefits trafficked each year. FNS could then develop strategies to efficiently and effectively reduce trafficking and use EBT data to measure the extent to which it was achieving its goals. On July 13, 2000, FNS released an update to its 1995 study. The new study estimated stores to be trafficking at \$660 million, about 3½ cents on every dollar of food stamp benefits provided.

than the information FNS would provide to States in connection with its investigation of trafficking storeowners.

FNS' actions to help the States reduce recipient trafficking was not being guided by the best available estimate of the extent of trafficking, which would enable it to better set appropriate goals and strategies, as prescribed by the Results Act. Instead, as proposed in the draft regional plans, FNS would work with the States only to investigate the number of suspect recipients identified as being involved with specific trafficking storeowners. In its fiscal year 2000 performance plan, FNS' goal is to disqualify 1,201 stores annually. FNS could realize this goal but not substantially reduce the overall level of trafficking because the stores disqualified might be those stores with relatively low levels of trafficking. FNS has not set priorities for targeting the trafficking stores—for example, based on the volume of transactions and/or the value of the benefits trafficked. If FNS set such priorities and identified these storeowners, additional States might have an incentive to examine more suspect recipients purchasing at these stores because the likelihood of recipient trafficking would be greater.

To help States improve their review of EBT data and to obtain a reliable estimate of the extent of trafficking, we recommended that FNS (1) determine the best techniques for using EBT data to identify suspected recipient traffickers and work with States to implement these techniques and (2) use EBT data to periodically develop reliable estimates of the extent of trafficking and use these estimates to develop goals and appropriate strategies for reducing trafficking. FNS agreed and has initiated corrective actions to implement both of these recommendations.

This concludes my statement. I would be pleased to answer any questions that you may have.

RECOMMENDATIONS CONTAINED IN GAO REPORTS AND SUBSEQUENT AGENCY ACTIONS

Food Stamp Program: Storeowners Seldom Pay Financial Penalties Owed for Program Violations, (GAO/RCED-99-91, May 11, 1999).

GAO Recommendations: To improve the integrity of the Food Stamp Program, we recommended that the Secretary of Agriculture direct the Administrator, Food and Nutrition Service (FNS), to:

- Develop guidance that specifies its field staff's responsibilities, duties, and guidelines in reviewing data on electronic benefit transfers to identify and assess penalties against storeowners who violate Food Stamp Program regulations;
- Develop the corrective actions necessary, as required by the Federal Claims Collection Standards, to help prevent delinquencies and defaults, and determine the priority and resources it needs to assign to make debt collection more effective; and
- Complete the actions needed to refer delinquent debts with storeowner taxpayer identification numbers to Treasury electronically in a timely manner.

Agency Action: FNS agreed with each of the GAO recommendations and has initiated actions to implement them. Regarding the first recommendation, FNS has issued several policy memorandums to the field and plans to issue a set of national guidelines for field staff use when reviewing and analyzing EBT data. Regarding the second recommendation, FNS has developed and implemented a strategy to refer all appropriate delinquent retailer debt, including retailer Taxpayer Identification Numbers, to the Treasury Department for collection. Regarding the third recommendation, FNS is developing the computer software necessary for the electronic transmission of retailer debt to the Treasury Department.

Food Stamp Program: Better Use of Electronic Data Could Result in Disqualifying More Recipients Who Traffic Benefits (GAO/RCED-00-61, March 7, 2000).

GAO Recommendations: To improve the integrity of the Food Stamp Program, we recommended that the Secretary of Agriculture direct the Administrator of the Food and Nutrition Service to:

- Work with the five States currently using EBT data to determine the best techniques for using these data to identify suspected recipient traffickers and work with the other States with statewide EBT systems to implement the best techniques, as appropriate, and
- Use EBT data to periodically develop reliable estimates of the extent of trafficking and use these estimates to develop goals and appropriate strategies for reducing trafficking.

Agency Action: FNS agreed with both of the GAO recommendations and has initiated actions to implement them. FNS stated that it fully agrees with GAO's recommendation to work with the five States which have been identified as currently using EBT data to identify suspected recipient traffickers and with the other States with statewide EBT systems to implement the best techniques, as appropriate. In the near future, FNS expects to publish a final regulation on recipient claims, which

will provide an increased financial incentive for States to be more aggressive in the pursuit of recipients who traffic in EBT benefits. Under this new regulation, States will be able to retain 35 percent of each collection.

With regard to the second recommendation, FNS agreed and, in July 2000, has issued an update to its 1995 report on the extent of food stamp trafficking. FNS also reported that it would use these estimates to develop goals and appropriate strategies for reducing trafficking. However, according to FNS, current law explicitly prohibits FNS from using Food Stamp Program funds to conduct studies and evaluations. FNS stated that restoration of funding to conduct this work is critical to effective implementation of this recommendation.

Mr. HOEKSTRA. Good. Thank you very much.

Mr. Hartman.

Mr. HARTMAN. Thank you for the opportunity to speak before you today about the Texas Electronic Benefit Transfer Program.

STATEMENT OF DARRELL HARTMAN

Mr. HARTMAN. We call it the Lone Star System. As indicated by the name we gave it, we take a great deal of pride in the Lone Star System. I'd like to give you a little history about the program. Texas believed there was a better way to provide food stamps to people in need and started looking into the provision of such benefits through an electronic benefit transfer system in the early 1990's.

As we looked at the program, it was easy to see that EBT offered a win-win situation to all of those involved. Clients, retailers, financial institutions, State agencies, Federal partners, and the general public all benefitted through an electronic delivery system.

A simpler, safer way for clients to receive and use their food stamp benefits with increased dignity and reduced stigma, an improved way to process transactions for the retailers, like the way they do business for other transactions.

For financial institutions, it eliminated the paper system and replaced it with an electronic one. And the general public benefitted by government doing business in a cost-effective, efficient manner that reduces fraud and abuse in a system.

So, as you can see, there are many reasons to do EBT. One of them was related to program integrity. That's the one that you have invited me here today to discuss. EBT, the Lone Star card, provided us an opportunity to assure that taxpayers, including the people who are receiving the benefits, could feel comfortable that the program was running as it was intended, providing supplemental nutrition to families and individuals in need. So the State developed an innovative program to identify retailers trafficking in food stamp benefits through the electronic trail provided by the Lone Star card transactions.

Using existing personnel and off-the-shelf computer technology, we began analyzing the EBT data to identify patterns of suspicious transactions, such as retailers with unusually high transaction amounts, retailers whose customers often spend every penny in their account, retailers with customers who make rapid, repeated transactions in a short time frame, retailers with a lot of even dollar transactions, and retailers with a high percentage of manual entry transactions, where they don't swipe the card.

EBT provides the clues. It gives us the electronic audit trail to go forward with investigations we would never have known were needed. In Fiscal Year 1998, we conducted approximately 100 re-

tailer trafficking investigations. In Fiscal Year 1999, we conducted approximately 125 trafficking investigations. We identified several who were trafficking more than a million dollars worth of benefits per year. We shut those operations down and referred the traffickers for prosecution and the stores to the Food and Nutrition Service for administrative action.

There are still some schemes out there to defraud the program, but it is tougher than it used to be. Perhaps more importantly, the Food Stamp Program in Texas has the support of the general public because they know people in need are receiving the benefits they need and that traffickers are being prosecuted.

Trafficking exists because there are retailers willing to buy and clients willing to sell food stamp benefits at a discount. We have found that the best way to identify suspicious clients is to first identify retailers who are trafficking. And through the process I've described, we have closed the circle that is required for the program to be defrauded, the circle which includes a retailer and a client working together.

In Fiscal Year 1998, the Department completed almost 3,000 client trafficking investigations, in which 1.44 million changed hands. Ninety-five percent of those clients signed a waiver or were found to have committed an intentional program violation through a hearing.

In Fiscal Year 1999, the Department completed close to 2,700 cases, of which 1.24 million changed hands. Almost all of the cases the Department develops against clients are handled through an administrative disqualification hearing. It is only the most blatant cases involving large amounts of benefits that the Department refers clients to a D.A. for felony prosecution.

As I mentioned earlier, we have partners in this effort to assure integrity in the Food Stamp Program: FNS, the Office of Inspector General at the USDA, and local law enforcement agencies. We consider other States our partners as well and have shared our innovative cost-effective initiative with them.

We travel to other States by invitation and host other States in Texas who are interested in our program. Two key elements are necessary for a strong anti-trafficking program. First, good, supportive relationships with your regional FNS office and the regional OIG are essential.

Texas appreciates the outstanding technical assistance and support we receive from both of these offices. Second, it is critical to have a deep commitment to program integrity, which allows a State to devote staff and automation resources to anti-trafficking effort.

In Texas, Commissioner Bost has made our efforts a top priority. And the support provided by the management and leadership of our State has been an important component of our success.

In conclusion, we want to thank FNS for their recent rule change, which allows States to establish claims on trafficking cases. While Texas took the initiative to begin this program because we believed it was the right thing to do, we are encouraged that this initiative for States to participate in developing comprehensive trafficking programs will reinforce the importance and

commitment to preserving the integrity of the Food Stamp Program.

You can probably tell by now that in Texas, we believe in the Food Stamp Program. We believe in the Lone Star System. And we believe that through the use of a strong, smart anti-trafficking program, which can be developed without expending a lot of scarce tax dollars, Americans will support a program which has integrity and cares for the nutritional needs of those who deserve support.

Thank you again for inviting me to testify.

[The prepared statement of Darrell Hartman follows:]

PREPARED STATEMENT OF DARRELL HARTMAN, OFFICE OF THE INSPECTOR GENERAL,
TEXAS DEPARTMENT OF HUMAN SERVICES

BACKGROUND

Texas believed there was a better way to provide food stamps to people in need, and started looking into the provision of such benefits through an electronic benefit transfer system in the early 1990's.

As we looked at the program, it was easy to see that EBT offered a win-win situation to all those involved. Clients, retailers, financial institutions, State agencies, Federal partners, and the general public all benefited through an electronic delivery system.

Key benefits included:

- A simpler, safer way for clients to receive and use their food stamp benefits with increased dignity and reduced stigma;
- An improved way to process transactions for the retailers—like the way they do business for other transactions;
- For financial institutions, it eliminated the paper system and replaced it with an electronic one; and
- The general public benefited by government doing business in a cost-effective, efficient manner that reduces fraud and abuse of the system.

So, as you can see, there were many reasons to do EBT—one of them was related to program integrity.

That is the one you have invited me to discuss today.

GETTING STARTED

The Lone Star program was statewide by the fall of 1995. At that time, over 2.5 million people were receiving over \$2 billion in food stamp benefits using the Lone Star card.

In Texas, we are committed to helping our neighbors in need. We are also committed to providing that help with integrity. At the time, there was a great deal of concern about fraud and abuse in the food stamp program.

EBT—the Lone Star card—provided us an opportunity to assure that taxpayers, including the people who were receiving the benefits, could feel comfortable that the program was running as it was intended—providing supplemental nutrition to families and individuals in need.

So the State developed an innovative program to identify retailers trafficking in food stamp benefits through the electronic trail provided by the Lone Star card transactions.

In the southwest region, the Food and Nutrition Service relies on our system to identify clients that may be utilizing their benefits inappropriately. Using existing personnel and off the shelf computer technology, we began analyzing the EBT data to identify patterns of suspicious transactions, such as:

- Retailers with unusually high transaction amounts;
- Retailers whose customers often spend every penny in their account;
- Retailers with customers who make rapid, repeated transactions in a short time frame;
- Retailers with a lot of even-dollar transactions (how often does your grocery tab come out to an even \$20 * * *, \$50 * * *, or \$100?); and
- Retailers with a high percentage of manual entry transactions—where they don't swipe the card.

SO, WHAT DOES IT MEAN?

EBT provides the clues. It gives us the electronic audit trail to go forward with investigations we would never have known were needed.

In FY 1998, we conducted approximately 100 retailer trafficking investigations. In FY 1999, we conducted approximately 125 retailer trafficking investigations.

We identified several retailers who were trafficking more than a million dollars worth of benefits per year. We shut those operations down and referred the traffickers for prosecution and the stores to the Food and Nutrition Service for administrative action.

But that is only a part of the picture. The big picture includes:

- Savings associated with shutting down the trafficking retailer. Not surprisingly, word travels fast when the State starts identifying suspicious operations;
- Savings associated with those who were trafficking out of their apartments—they didn't even have retail outlets—but now we knew because we had to install equipment to process the electronic transactions; and
- Savings associated with the significant reduction in trafficking throughout the state.

There are still some schemes out there to defraud the program, but it is tougher than it used to be to work the system.

Perhaps most importantly, the food stamp program in Texas has the support of the general public because they know people in need are receiving the benefits they need—and that traffickers are being prosecuted.

WHAT ABOUT THE CLIENT?

Trafficking exists because there are retailers willing to buy—and clients willing to sell—Food Stamp benefits at a discount.

We have found that the best way to identify suspicious clients is to first identify retailers who are trafficking.

And through the process I have described, we have closed the circle that is required for the program to be defrauded—the circle which includes a retailer and a client, working together.

In FY 1998, the Department completed almost 3000 client trafficking investigations in which \$1.44 million changed hands.

95 percent of those clients signed a waiver or were found to have committed an intentional program violation through a hearing.

In FY 1999, the Department completed close to 2,700 cases in which \$1.24 million changed hands.

Almost all of the cases the Department develops against clients are handled through an administrative disqualification hearing. It is only in the most blatant cases, involving large amounts of benefits, that the Department refers clients to a DA for a felony prosecution.

OUR PARTNERS

As I mentioned earlier, we have partners in this effort to assure integrity in the Food Stamp program—FNS, the Office of Inspector General at the USDA, and local law enforcement agencies.

We consider other States our partners as well and have shared our innovative, cost-effective initiative with them. We travel to other States by invitation, and host other States in Texas who are interested in our program.

Two key elements are necessary for a strong anti-trafficking program:

- First—good, supportive relationships with your regional FNS office and Regional OIG are essential. Texas appreciates the outstanding technical assistance and support we have received from both these offices; and
- Second—it is critical to have a deep commitment to program integrity which allows the State to devote staff and automation resources to the anti-trafficking effort. In Texas, Commissioner Bost has made our efforts a top priority and the support provided by the management and leadership of our State has been an important component of our success.

CONCLUSION

In conclusion, we want to thank the FNS for their recent rule change which allows States to establish claims on trafficking cases. While Texas took the initiative to begin this program because we believed it was the right thing to do, we are encouraged that this incentive for States to participate in developing comprehensive trafficking programs will reinforce the importance and commitment to preserving the integrity of the Food Stamp program.

You can probably tell by now that in Texas, we believe in the FS program, we believe in the Lone Star system, and we believe that through the use of a strong, smart anti-trafficking program (which can be developed without expending a lot of scarce tax dollars) Americans will support a program which has integrity and cares for the nutritional needs of those who deserve support.

Once again, thank you for inviting me to speak to you today.

Mr. NUSSLE [presiding]. Thank you.

Ms. Watkins.

STATEMENT OF SHIRLEY WATKINS

Ms. WATKINS. Mr. Chairman and members of this Committee, I am Shirley Watkins, Under Secretary for Food, Nutrition, and Consumer Services. I am honored to join you this afternoon as your Task Force looks at USDA's premier program that has the responsibility of providing the safety net for and the fight against hunger: our Food Stamp Program.

This is a very crucial element of President Clinton's and Secretary Glickman's commitment to delivering nutrition assistance to needy Americans. And that is to protect the integrity of the Food Stamp Program from those who would misuse or abuse the program. We worked tirelessly to identify ways to strengthen the program management and to keep public confidence in this vital program very high.

Our mission at FNCS, Food, Nutrition, and Consumer Services, is to reduce hunger and food insecurity in partnership with cooperating organizations by providing children and needy families access to food, a healthful diet, and nutrition education in a manner that supports American agriculture and inspires public confidence. And I think that is the same thing that you have heard from Mr. Hartman, who has indicated that Texas supports the Food Stamp Program and the public confidence is a critical element of that.

The purpose for today's hearing is to discuss to what extent trafficking exists. Last week we released a study entitled "Extent of Trafficking in the Food Stamp Program: An Update." The study shows that the level of food stamp benefits trafficked for cash dropped by 19 percent between 1993 and 1998. We estimate that stores trafficked about \$660 million per year, roughly 3.5 cents of every dollar of benefits issued.

Mr. Chairman, I would like to ask that the study be included in the official record of today's testimony.

Mr. NUSSLE. It will be.

Ms. WATKINS. Thank you.

[The FNCS study follows:]

THE EXTENT OF TRAFFICKING IN THE FOOD STAMP PROGRAM: AN UPDATE

EXECUTIVE SUMMARY

Food stamps are intended for food. When individuals sell their benefits for cash it violates the spirit and intent of the Food Stamp Program as well as the law. This practice, known as trafficking, diverts food stamps away from their purpose. It reduces intended nutritional benefits and undermines public perceptions of the integrity and utility of the program. A crucial question, therefore, is the extent to which trafficking exists.

Several years ago, a method to calculate data-based estimates of the prevalence of trafficking was developed by USDA. The Extent of Trafficking in the Food Stamp

Program¹ used this method to analyze over 11,000 completed undercover investigations of trafficking and generate an estimate for calendar year 1993. This report duplicates the precise methodology of the earlier analysis with more than 10,000 new investigations to generate an estimate for the 1996–1998 calendar year period. We find that:

The amount of trafficking has decreased. Stores trafficked about \$660 million per year for cash from the government in the 1996–1998 period, a 19 percent decline from the \$815 million trafficked in 1993.

The rate of trafficking has also decreased. The trafficking rate—which compares dollars trafficked to benefits issued—declined 8 percent: from almost four cents of every dollar of food stamp benefits issued to three-and-one-half cents of every dollar issued.

FNS concentrates its enforcement efforts on stores most likely to traffic. In addition, the expansion of Electronic Benefit Transfer (EBT)—which had grown to half of all issuance during this period—makes certain forms of trafficking harder to conduct and large-scale trafficking easier to detect. For these reasons, we find the largest reduction in the trafficking rate among the store categories most likely to traffic—privately owned stores, especially small ones that do not stock a full line of food.

When we repeat our analysis of where store violations occur the overall pattern remains unchanged:

- Dramatic differences exist among store types: the percent of redemptions that are trafficked ranged from nearly zero to over fifteen percent across store categories.
- The stores which redeem the overwhelming majority of food stamp benefits continue to have very low trafficking rates.

ACKNOWLEDGMENTS

The author wishes to express his appreciation to the many individuals who contributed to this report. Richard Mantovani, Ph.D, Hoke Wilson and Tigran Markaryan at Macro International successfully compiled and merged the data summarized here, faithfully reproduced the original methodology, made thoughtful suggestions, and responded promptly to the author's numerous requests for additional information and analyses.

Steven Carlson, Director of the Family Programs Staff in the Office of Analysis, Nutrition and Evaluation (OANE), Food and Nutrition Service, provided guidance and commented thoughtfully on drafts of the text. Ken Offerman, also of OANE, managed the contractual support for the project, performed considerable legwork in tracking down data, and also commented thoughtfully on drafts. Finally, the staff of the Benefit Redemption Division of the Food Stamp Program provided many comments and corrections and helped to make this a comprehensive—and better—report.

INTRODUCTION

Food stamps are intended for food. When individuals sell their benefits for cash it violates the spirit and intent of the Food Stamp Program as well as the law. This practice, known as trafficking, diverts food stamps away from their purpose. It reduces intended nutritional benefits and undermines public perceptions of the integrity and utility of the program. A crucial question, therefore, is the extent to which trafficking exists.

Several years ago, a method to calculate data-based estimates of the prevalence of trafficking was developed by USDA. The Extent of Trafficking in the Food Stamp Program² used this method to analyze over 11,000 completed undercover investigations of trafficking and generate an estimate for calendar year 1993.³ The report found that:

- About \$815 million was trafficked for cash from the government by food stores during 1993. This amounted to just under four cents of every dollar of food stamp benefits issued.

¹Theodore F. Macaluso, *The Extent of Trafficking in the Food Stamp Program* (Alexandria, VA: Food and Nutrition Service, USDA; 1995).

²Theodore F. Macaluso, *The Extent of Trafficking in the Food Stamp Program* (Alexandria, VA: Food and Nutrition Service, USDA; 1995).

³Both the earlier report and this one intentionally use calendar, rather than fiscal, years for the analysis. There are two reasons for this. First, it is necessary to combine investigations from several years to achieve a sufficient number of cases for analysis, so the choice of a fiscal or calendar metric is arbitrary. Second, the use of calendar year reinforces the fact that we are providing estimates, rather than administrative data (which typically is presented on a fiscal year basis).

- Significant differences across types of food retailers existed: supermarkets had very low trafficking rates, non-supermarkets had substantially higher trafficking rates.

- The food stores which redeemed the overwhelming majority of food stamp benefits had very low trafficking rates.

This report updates the earlier analysis with more than 10,000 new investigations to generate an estimate for the 1996–1998 calendar year period. We continue to estimate three basic measures of trafficking:

1. the amount of trafficking (i.e., the total sum of dollars trafficked, which depends partly upon the total sum of benefits issued and partly upon the next measure, the rate of trafficking);
2. the rate of trafficking (the proportion of total benefits issued which were trafficked), and
3. the store violation rate (the proportion of all authorized stores that engage in trafficking).

While all three measures are important for different purposes, the second measure—the rate of trafficking—is the one that provides an approximation of FNS’ relative success in controlling trafficking. The trafficking rate is independent of the size of the program (i.e., the total sum of benefits issued) or the relative market share of different types of retailers (which is not reflected in the store violation rate).

We undertook an update because there have been several significant developments which may affect each of these measures of trafficking. These developments include the following:

- A 24 percent decline in food stamp caseload: from 10.8 million households per month in 1993 to 8.2 million in 1998. The caseload decline resulted in an 11.3 percent decline in total benefits issued. This is likely to reduce the total dollar amount of trafficking (since total benefits issued decreased), but is unlikely—by itself—to change the trafficking rate (i.e., the proportion of benefits issued that are trafficked).⁴

- A 16 percent decline in the number of food retailers authorized to accept food stamps: from about 210,000 in 1993 to 177,000 in 1998. The decline in participating retailers may change the store violation rate depending upon whether stores willing to traffic left the program at a faster (or slower) rate than non-trafficking stores. However the influence of this factor on changes in the rate of trafficking will depend upon two things: (i) whether trafficking-prone stores that remain on the program changed their trafficking activity; and (ii) whether food stamp participants choose to shop at trafficking-prone stores or not.

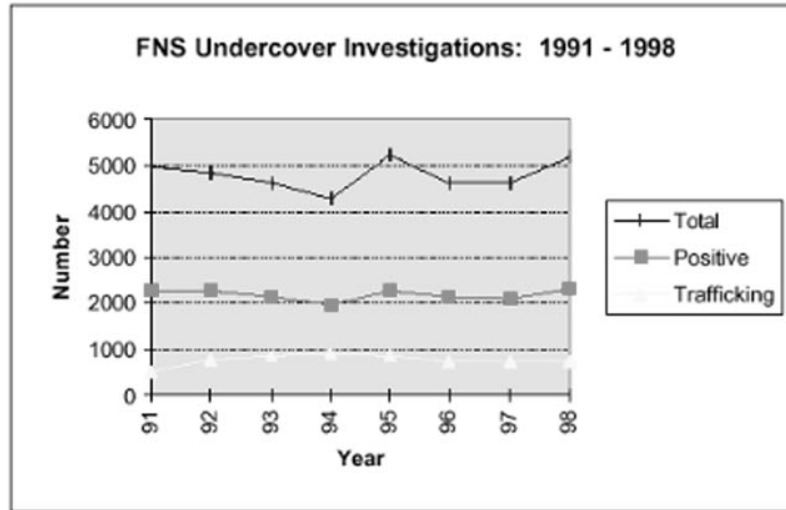
- A 50 percent change-over from paper food coupons to electronic benefit transfer (EBT). The Personal Responsibility and Work Opportunities Reconciliation Act of 1996 mandates that all States convert from paper food stamp coupons to electronic benefit issuance by 2002. By September 1998 slightly more than half of all food stamp benefits were issued and redeemed electronically. Under EBT certain forms of trafficking are harder to conduct and large-scale trafficking is easier to detect. Therefore, we would expect its expansion to reduce the rate of trafficking (i.e., the proportion of benefits issued that are trafficked).⁵

The combined effect of these developments is hard to predict. Fortunately, one additional factor that could affect results—the quality of FNS undercover investigations—appears to have remained stable: there has been no meaningful change in the quantity or quality of FNS investigations. The total number of investigations, the number in which any food stamp violation is disclosed (“positives”) and the raw number in which trafficking is found have each remained relatively constant from 1993 through 1998 (Chart 1).

⁴There has been speculation that able-bodied adults without dependents (ABAWDS) are more likely to traffic than other program participants. If this were true, then welfare reform time limits on the duration of participation by ABAWDS might be expected to reduce the rate of trafficking. However, the evidence available to USDA indicates that no one category of participant is either more or less prone to traffic than any other category.

⁵EBT also provides new ways to catch any trafficking that does occur. A new system, labeled ALERT, analyzes EBT transaction data to catch some trafficking stores without the need for in-person investigations. These cases are still relatively new and are not incorporated here. FNS is working on developing a new trafficking measure to better reflect the impact of Electronic Benefit Transfer. ALERT data will be included in the new measure.

Chart 1



APPROACH

This update uses the same methodology as the earlier report to ensure consistent comparisons. The method focuses on authorized food retailers because all trafficking must eventually flow through a food retailer authorized to participate in the Food Stamp Program. The reason is obvious, but worth pointing out explicitly: authorized food retailers are the only ones who can redeem food benefits for cash from the government.⁶

Because authorized food retailers are the only ones who can redeem food benefits for cash from the government, knowing the prevalence of trafficking among retailers tells us the maximum amount of dollars diverted from food benefits by trafficking for cash.⁷

The Food and Nutrition Service (FNS) maintains a staff of investigators who work undercover to determine whether authorized food stores sell ineligible items or engage in trafficking. Stores caught violating are fined or removed from the program and in some instances prosecuted.

For the update, we followed the same approach used in the earlier report:⁸

- First, we sorted a database of 10,354 completed investigations across five specific dimensions that categorize store types and store locations.⁹

⁶While food retailers constitute the overwhelming majority of authorized redeemers of food stamp benefits, the Food Stamp Program has also authorized a few food wholesalers to accept food stamp benefits. For simplicity, we refer to all authorized entities as retailers.

⁷Trafficked coupons are not always redeemed for cash from the government. Owners of small authorized or unauthorized stores, restaurants, and the like can pretend to be recipients and illegally use food stamps to buy food at supermarkets for resale in their stores. We label this "evasion trafficking" (since it is a form of tax evasion) and discuss its impact on our estimate at the end of this paper.

⁸There is one trivial difference: the earlier report involved data on investigations started by January 1, 1991 and completed by March 1994 which were combined with redemption data from 1993 and presented as a single result for calendar 1993; this update involves data on investigations completed between January 1996 through December 1998 combined with redemptions from 1996–1998, which we annualize and present as a single result for the 1996–1998 period. Because trafficking was less of a focus of investigators in the 1980's than it is now, the earlier report involved a cut-off on the start of investigations to ensure that the investigators' focus was on trafficking (rather than sale of ineligible items). Such a restriction is no longer needed.

⁹We obtained all investigations included in the FNS Store Investigation and Monitoring System (SIMS) database for calendar years 1996 through 1998. A small fraction of these investigations were of stores that could not be matched to zip codes in the redemption file and therefore

Continued

- Second, for each specific category of store and location we compiled national data from calendar years 1996 through 1998 on the total number of stores and the total food stamp redemptions in that category.
- Third, we analyzed the investigation outcomes and calculated the weighted trafficking and store violation rates within each category.¹⁰ We weighted the investigation data to accurately represent the national figures.¹¹ We calculated two of our three measures: the trafficking rate, a redemption-based rate to reflect dollar diversions, and the store violation rate, a store-based rate to identify the kinds of stores that contain the most violators.
- Finally, we multiplied the redemption-based trafficking rate against the total food stamp redemptions in each category and summed across all categories to obtain the first of our three measures: the amount of trafficking, which provides an estimate of dollars diverted from food benefits by trafficking in the Food Stamp Program.¹²

were not used in the analysis. Inspection of these dropped investigations indicated (1) that the proportion of trafficking to non-trafficking outcomes in these investigations was similar to the data used for the analysis and (2) the cases were distributed across the data in such a way that it is implausible that they would change any substantive findings. The total number of SIMS investigations and the number used in the analysis were as follows:

1996: SIMS—3,709; Analysis file—3,690.
 1997: SIMS—3,624; Analysis file—3,601.
 1998: SIMS—3,095; Analysis file—3,063.
 Total: SIMS—10,428; Analysis file—10,354.

The five dimensions we employ consist of three that categorize stores (type of store, ownership, and amount of food stamp business) and two that categorize the zip code in which each store was located (degree of urbanization, percent of households in poverty). Specific definitions employed are as follows:

Type of Store. Store types on the FNS application form were collapsed to the following seven categories (to ensure an adequate number of cases of each type):

Supermarket—any store identifying itself to FNS as a supermarket or grocery with gross sales over \$2,000,000.

Large grocery—any store identifying itself to FNS as a supermarket or grocery with gross sales between \$500,000 and \$2,000,000.

Small grocery—any store identifying itself to FNS as a supermarket or grocery with gross sales under \$500,000.

Convenience—any store identifying itself to FNS by this title, regardless of gross sales.

Specialty—any store identifying itself to FNS by this title, regardless of gross sales. They are almost always single product line stores such as meat markets, fish markets, dairy stores, etc.

Gas/Grocery—any store identifying itself to FNS by this title, regardless of gross sales.

Other Types—any store identifying itself to FNS by a title different than any of the preceding, regardless of gross sales. Examples include produce stands, general stores, combination grocery/bars, health/natural food stores, milk and/or bread routes.

Ownership. Ownership types on the FNS application form were collapsed to the following two categories (to ensure an adequate number of cases of each type):

Public—any store identifying itself to FNS as a public corporation (i.e., a retailer whose stock trades publicly).

Private—any store identifying itself to FNS as other than publicly owned. This includes private (i.e., closely held) corporations as well as partnerships, sole proprietorships, co-ops, etc.

(“Franchise” is a separate category on the FNS application, not an ownership type: both public and private ownership categories include stores that report themselves as franchises.)

Amount of Food Stamp Business. Stores were categorized into deciles on the basis of food stamp redemptions. The purpose was statistical, rather than analytical, to ensure that large disparities in redemptions by stores do not distort results.

Urbanization. Based on census data for the zip code in which the store is located. Four categories were employed: 0 to 10 percent urban population, 11 to 50 percent, 51 to 90 percent, and over 90 percent.

Poverty. Based on census data for the zip code in which the store is located. Four categories were employed: 0 to 10 percent of residential population below poverty, 11 to 20 percent, 21 to 30 percent, and over 30 percent.

¹⁰For calculating trafficking rates, the number of investigations in each store category are large enough to give high confidence in the estimates (ranging from a low of 369 to a high of 3,665 by store type).

¹¹Statistically, the FNS investigation data base encompasses a sufficient number of cases to be used as a post-stratified sample of the national “population” of retailers. By categorizing the investigated stores on the five dimensions described in note 8 and weighting the stores, by category, to reflect the national population of retailers, by category, we are able to draw valid conclusions about the national situation.

¹²The specific calculation was a two-stage one. The first stage combines the data on the trafficking rates by type of store and store location with national redemption data to yield an estimate of the gross redemptions by authorized food stores found trafficking. The second stage accounts for the fact that some of the gross redemptions are legitimate food sales. To ensure consistency with the earlier estimate, we continue to use the assumption that legitimate food sales account for 60 percent of the gross redemptions among supermarkets and large grocery stores caught trafficking and treat 40 percent of their gross redemptions as trafficked. Among all other

FINDINGS

About \$660 million per year was diverted from food benefits by trafficking between 1996 and 1998. This amounts to three-and-one-half cents of every benefit dollar issued (Table 1).

Our methodology yields a cautious estimate that is likely to best represent the maximum dollars diverted from food benefits per year by direct trafficking in 1996–1998.

TABLE 1.—TRAFFICKING CONTINUES TO BE LOW AMONG SUPERMARKETS AND LARGE GROCERY STORES BUT SUBSTANTIALLY HIGHER AMONG SMALL STORES AND STORES THAT DO NOT STOCK A FULL LINE OF FOOD

Type of store	1993			1996–1998		
	Store violation rate	Trafficking rate	Estimated trafficking amount (\$'000)	Store violation rate	Trafficking rate	Estimated trafficking amount (\$'000)
Supermarkets	4.2	1.7	\$282,058	5.3	1.9	\$279,163
Large Groceries	6.7	3.7	46,632	9.8	3.2	35,255
Subtotal	5.0	1.9	\$328,690	6.7	2.0	\$314,418
Small Groceries	12.8	15.7	177,809	14.4	15.8	154,109
Convenience	8.1	9.6	78,090	11.7	10.8	66,809
Specialty	17.6	14.2	117,004	10.7	8.1	55,782
Gas/Grocery	8.7	10.4	27,528	12.8	9.7	21,784
Other Types	10.2	12.4	82,605	16.2	9.4	43,892
Subtotal	10.7	13.0	\$483,036	13.0	11.5	\$342,376
All Stores	9.4	3.8	\$811,726	11.7	3.5	\$656,794

Notes: The 1996–1998 data have been annualized—see footnote 8.

Trafficking violation rates are calculated separately for stores and redemptions. The store violation rate is the percent of investigated stores caught trafficking weighted by the national distribution of stores. The trafficking rate is the percent of trafficked redemptions in investigated stores, weighted by the national distribution of redemptions. The apparent anomaly between the two rates—i.e., the store-based rate was higher in 6 of 7 store types while the redemption-based rate is lower both overall and in 4 of 7 store types—reflects the fact that the two rates measure different aspects of trafficking.

TRAFFICKING AND CHANGE IN BENEFITS ISSUED

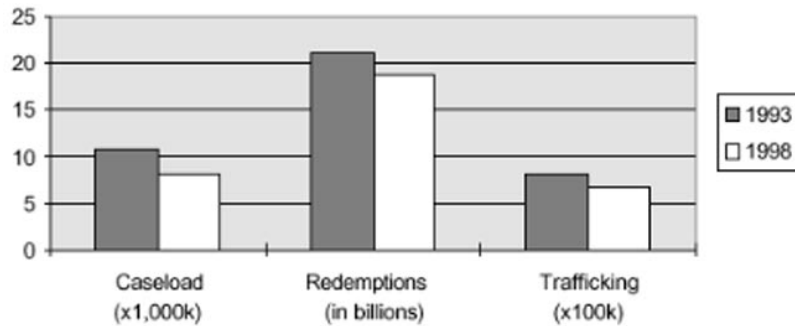
Compared to 1993, the 1998 figure represents a 19 percent decline in the dollar amount of benefits trafficked. As expected, we find a similarity among the changes in caseload, total redemptions, and the amount of trafficking (Chart 2):

However, the decline in caseload and total redemptions is far from a complete explanation of changes over this period of time: we also find an 8 percent decline in the rate of trafficking, which is independent of benefits issued. The trafficking rate decreased from 3.8 percent of benefits issued in 1993 to 3.5 percent of benefits issued in 1998 (Table 1).

types of food stores, we assume that only 10 percent of the gross redemptions are legitimate food sales among stores that do not stock a full line of food (i.e., small grocery, convenience, specialty food, gas/grocery, and “other” stores) and treat 90 percent of their gross redemptions as trafficked.

Chart 2

**Food Stamp Caseload and Dollar Amount of
Trafficking: 1993 - 1998**

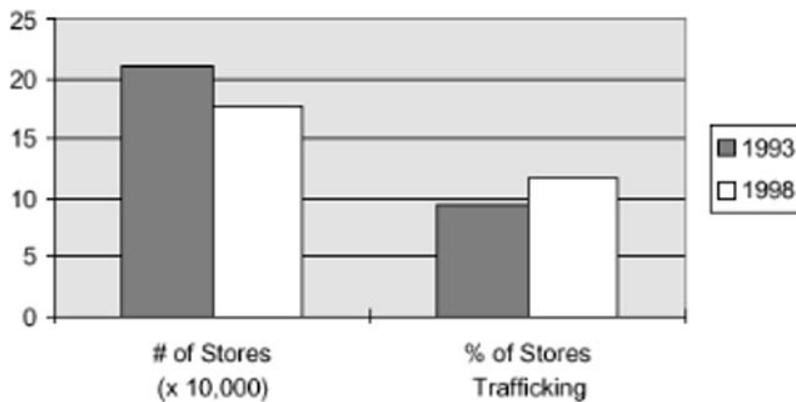


TRAFFICKING AND CHANGE IN THE AUTHORIZED RETAILER POPULATION

The 16 percent decline in number of authorized retailers also does not appear to explain the improvement in the trafficking rate: we actually find an increase in the store violation rate between 1993 and 1998 (Table 1 and Chart 3).

Chart 3

**Authorized Food Stamp Retailers:
1993 and 1998**



TRAFFICKING AND TYPE OF FOOD RETAILER

Part of the explanation for the improvement in the trafficking rate is to be found in two critical facts:

(1) trafficking continues to vary by type of store;

(2) stores that redeem the most, traffic the least.

Tables 1 and 2 show that:

- Supermarkets and large grocery stores redeemed 84 percent of all benefit dollars but few of those dollars are trafficked.

- In comparison to supermarkets and large grocery stores, trafficking rates among small stores and stores that do not stock a full line of food are 4 to 8 times higher.

TABLE 2.—DISTRIBUTION AND MARKET SHARES OF AUTHORIZED FOOD STAMP RETAILERS

Type of store	1993 Percent of all		1996–1998 Percent of all	
	Stores	Redemptions	Stores	Redemptions
Supermarkets	15.3	76.5	14.9	78.3
Large Groceries	6.9	6.0	7.0	5.8
Subtotal	22.2	82.5	21.9	84.1
Small Groceries	18.8	5.4	20.0	5.2
Convenience	27.7	3.8	26.8	3.3
Specialty	8.7	3.9	9.0	3.7
Gas/Grocery	10.3	1.2	11.9	1.2
Other Types	12.3	3.2	10.4	2.5
Subtotal	77.8	17.5	78.1	15.9
All Stores	(¹) 100.0	(²) 100.0	(³) 100.0	(⁴) 100.0

Table notes:

1. Based on a total of 200,568 authorized food retailers redeeming at any point during 1993.

2. Based on a total of \$21.1 billion.

3. Based on 237,824 unique food retailers redeeming at any point during the 1996–1998 period.¹³

4. Based on total of \$56.16 billion over the 3 years.¹⁴

Between 1993 and 1998 there was a modest increase in the relative market share of supermarkets and large grocery stores—the stores least likely to traffic (Chart 4).

¹³ We processed all stores received from FNS redemption files but used only the ones with a match to zip code data in the analysis. Stores that had no redemptions were dropped from the analysis (unless they had been investigated, in which case they were retained). For each specific year the total number of authorized retailers received and total number in our analysis file are as follows:

1996: Received—205,318; Analysis file—202,850

1997: Received—196,408; Analysis file—193,510

1998: Received—184,055; Analysis file—180,857

¹⁴ For each specific year the sum of redemptions (total dollars) was:

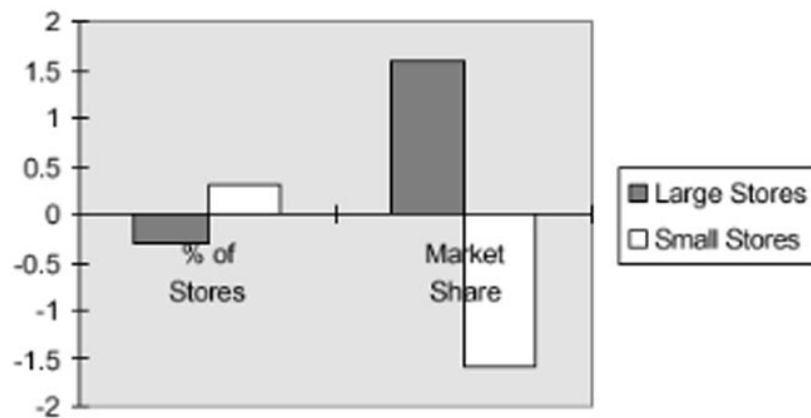
1996: Received—\$21,713,774,005; Analysis file—\$21,580,132,008

1997: Received—\$18,463,396,131; Analysis file—\$18,322,710,580

1998: Received—\$16,433,240,311; Analysis file—\$16,260,221,191

Chart 4

Change in Retailer Population and Market Share: 1993 - 1998



Notes: Unlike earlier charts, in which each column was a different year (1993 or 1998), in this chart each column is the difference between the two periods. The “large store” category includes both supermarkets and large grocery stores; “small stores” are everything else. Market share is defined as the percentage of redemptions accounted for by the given category of store.

Food retailers owned by public corporations (i.e., owned by a company whose stock trades publicly) continue to have lower trafficking rates than privately owned stores (Table 3). The public corporation category includes many of the major national supermarket chains, many convenience store chains, and many grocery marts associated with national gasoline retailers.¹⁵

- In 375 investigations of public corporations, FNS undercover investigators found trafficking involved about 4 percent of publicly owned stores.
- Among privately owned food retailers, FNS undercover investigators found trafficking in almost thirteen percent of stores.

TABLE 3.—PUBLICLY OWNED FOOD RETAILERS DISPLAY LOW TRAFFICKING RATES; PRIVATELY OWNED RETAILERS, ESPECIALLY NON-SUPERMARKETS, ARE SUBSTANTIALLY MORE LIKELY TO ENGAGE IN TRAFFICKING

Type of store	Trafficking when store is publicly owned				Trafficking when store is privately owned			
	Store violation rate		Trafficking rate		Store violation rate		Trafficking rate	
	1993	1998	1993	1998	1993	1998	1993	1998
Supermarkets	0.0	(¹) 4.7	0.0	(¹) 3.0	5.4	5.7	2.6	1.3
Large Groceries	0.0	0.0	0.0	0.0	6.8	9.9	3.8	3.3

¹⁵ We categorize stores according to how they categorized themselves in FNS authorization data. Examples of public corporations are major supermarket chains, like Albertson's and Safeway and gas-and-go mini-marts operated by companies like Texaco or Mobil. Many major supermarket chains, such as the Publix chain in Florida, are private corporations. IGA stores which have the appearance of a chain but are not public also fall under non-public ownership. Stores that most readers consider “franchises” may fall under either the public or non-public heading, depending on how they categorized themselves to FNS. Southland's 7-Eleven chain are classified under public corporations.

TABLE 3.—PUBLICLY OWNED FOOD RETAILERS DISPLAY LOW TRAFFICKING RATES; PRIVATELY OWNED RETAILERS, ESPECIALLY NON-SUPERMARKETS, ARE SUBSTANTIALLY MORE LIKELY TO ENGAGE IN TRAFFICKING—Continued

Type of store	Trafficking when store is publicly owned				Trafficking when store is privately owned			
	Store violation rate		Trafficking rate		Store violation rate		Trafficking rate	
	1993	1998	1993	1998	1993	1998	1993	1998
Other Types (small groceries, convenience stores, gas/grocery, specialty foods, etc.	1.7	4.3	1.8	4.6	12.0	14.0	15.1	12.3
All Stores	1.2	4.4	0.2	3.0	10.7	12.7	5.3	3.7

¹ See footnote 20.

Trafficking violation rates are calculated separately for stores and redemptions. The store violation rate is the percent of investigated stores caught trafficking weighted by the national distribution of stores. The trafficking rate is the percent of trafficked redemptions in investigated stores, weighted by the national distribution of redemptions.

The store categories most likely to traffic continue to be small privately owned stores and privately owned stores that do not stock a full-line of food (Table 4):

- Among these stores more than 1 of every 8 benefit dollars redeemed was trafficked.
- While these categories account for about 71 percent of all stores they account for only 14 percent of all redemptions.

TABLE 4.—SMALL PRIVATELY OWNED STORES HAVE THE HIGHEST TRAFFICKING RATES BUT REDEEM ONLY 14 PERCENT OF ALL BENEFITS ISSUED

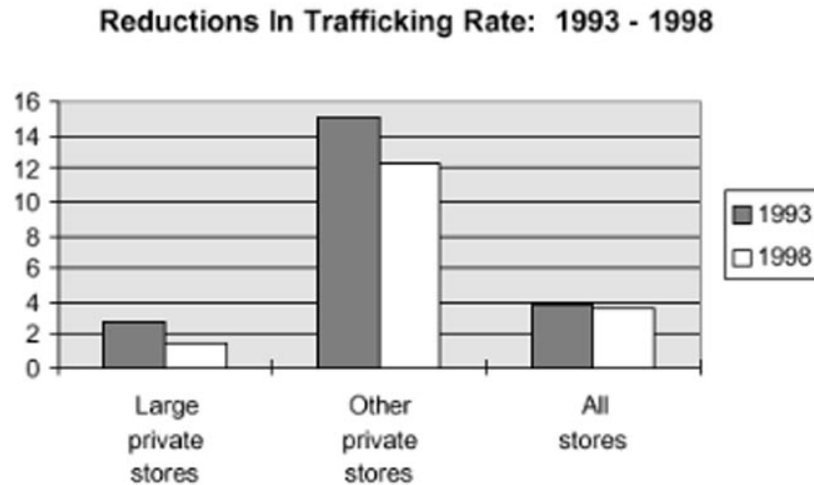
Category of store	Trafficking rates (redemptions)		Percent of all stores		Percent of all redemptions	
	1993	1998	1993	1998	1993	1998
Publicly Owned Stores	0.2	(¹)	12.8	12.8	28.0	30.0
Large Private Stores	2.7	1.5	17.2	16.5	56.2	55.8
Private—other stores	15.1	12.3	70.0	70.7	15.8	14.2
All stores	3.8	3.5	100.0	100.0	100.0	100.0

¹ See footnote to Table 3.

TRAFFICKING, FNS ENFORCEMENT AND EBT

FNS concentrates its enforcement efforts on stores most likely to traffic. In addition, the expansion of Electronic Benefit Transfer (EBT) makes certain forms of trafficking harder to conduct and large-scale trafficking easier to detect. For these reasons, it should not be surprising that we find the largest reduction in the trafficking rate among the store categories most likely to traffic—privately owned stores, especially small ones that do not stock a full line of food (Chart 5).

Chart 5



TRAFFICKING AND STORE LOCATION

The 1993 report examined the prevalence of trafficking by neighborhood and found that trafficking is more frequent among stores located in the poorest of poor neighborhoods. The 1993 report also found only a mild relationship between trafficking rates and a store's location in an urban neighborhood. These two findings continued to be true in the 1996–1998 period.

Stores in the poorest of poor neighborhoods continue to be more likely to engage in trafficking than stores located elsewhere, although the difference between rich and poor neighborhoods has decreased somewhat (Table 5). Few recipients are likely to sell food stamp benefits for less than they can buy in food, unless the need for cash is overwhelming. It is no surprise, therefore, to find that the rate of trafficking (i.e., proportion of benefits trafficked) continues to vary widely by the economic status of neighborhoods.

TABLE 5.—TRAFFICKING IS MORE FREQUENT IN THE POOREST OF POOR NEIGHBORHOODS

Percent of households in poverty in Zip Code where store is located	Trafficking rates				Percent of all			
	Store violation rate		Trafficking rate		Stores		Redemptions	
	1993	1998	1993	1998	1993	1998	1993	1998
0 to 10 percent	4.6	9.5	1.7	2.0	30.3	26.5	27.2	23.2
11 to 20 percent	8.7	10.7	4.1	3.1	38.9	40.5	38.9	40.1
21 to 30 percent	13.0	13.2	3.8	3.3	20.1	20.5	20.1	21.6
Over 30 percent	19.2	16.8	7.6	7.1	13.8	12.4	13.8	15.1
All Stores	9.4	11.7	3.8	3.5	100.0	100.0	100.0	100.0

Although some urban areas are widely perceived as having more crime than rural areas, we found only a mild relationship between the trafficking rate and urbanicity. The Bureau of the Census classifies zip codes by the urban/rural percentage of residents in the zip code. The trafficking rates by urban/rural percentage in the zip code in which a store is located show a modest increase in highly urban areas (Table 6).

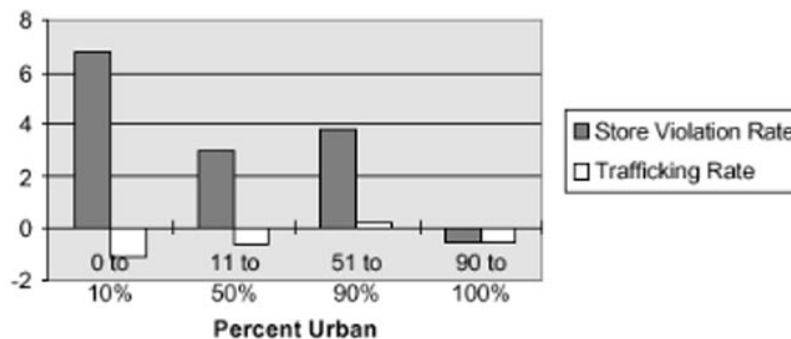
TABLE 6.—THE TRAFFICKING RATE IS SLIGHTLY HIGHER IN HIGHLY URBAN AREAS

Stores located in Zip Codes where percent urban is	Trafficking rates			
	Store violation rate		Trafficking rate	
	1993	1998	1993	1998
0 to 10 percent	6.1	12.9	3.5	2.4
11 to 50 percent	8.6	11.6	3.1	2.5
51 to 90 percent	7.1	10.9	2.8	3.0
90 to 100 percent	12.1	11.6	4.4	3.9

While trafficking rates remain low and do not vary sharply by urbanicity, between 1993 and 1998 we find a large increase in the store violation rate in rural and lower-urban areas (Chart 6). Table 5 indicates a similar increase in the store violation rate outside of the poorest areas. The reason for these changes in store behavior is unknown.¹⁶

Chart 6

**Change in Trafficking Patterns by Urbanicity:
1993 - 1998**



Stores in low trafficking areas continue to redeem the majority of food stamp benefits.

- Twelve percent of the nation's authorized food retailers are located in high poverty/high trafficking areas, 88 percent are located in lower poverty/low trafficking areas.
- Eighty-five percent of redemptions flow through stores located in neighborhoods where less than 30 percent of the population is below poverty.

CONCLUSION AND IMPLICATIONS FOR PROGRAM INTEGRITY

The rate of trafficking has decreased over this period. Although the data available are not sufficient to determine causality, the direction and nature of the decrease are consistent with two facts:

¹⁶The increase in store violation rates outside of high poverty and highly urban areas may have occurred for several reasons. For example, the results are possible if the decline in authorized retailers differed by area. Alternatively, the results may reflect the expansion of EBT, either if the EBT switch-over forces violators into nearby non-EBT areas (and those areas are less than 90 percent urban and/or the population in poverty is under 21 percent) or if rural or higher-income States are implementing EBT at a slower rate. It is also unclear at this stage whether the increase is occurring among all non-urban stores or only those located along highways through rural areas. FNS is developing a new trafficking measure to better reflect the impact of Electronic Benefit Transfer. These—and other—potential explanations will be analyzed as part of that effort.

- The stores which redeem the majority of food stamp benefits continue to be stores with the lowest trafficking rates. Overall, 84 percent of food stamp benefits are redeemed in store categories with the lowest rates of trafficking.
- Electronic Benefit Transfer accounted for over half of all issuance during the measured period.

EBT has expanded even more since these data were collected and it now represents over seventy percent of all food stamp issuance.

Finally, during this period the store violation rate increased in rural and lower-poverty areas. While this change should be monitored, its significance is muted by the fact that the proportion of benefits trafficked in such areas (the rate of trafficking) is low.

TECHNICAL DISCUSSION

When we look at additional considerations that bear on trafficking, we find two factors which would tend to increase our estimate and two others that would tend to decrease it. It is important to discuss each of these additional considerations explicitly.

SOURCES OF UNDERESTIMATION

1. Our procedure underestimates two aspects of the trafficking problem. The first aspect leading to underestimation is evasion trafficking:

- Among small retailers that are family-owned or where ownership is closely held, some violators do not redeem coupons for cash from the government (direct trafficking) but buy food stock for resale from large stores with trafficked coupons (a form of tax evasion we label “evasion trafficking”). Evasion trafficking is a gray area, since the practice does not necessarily involve discounting: a small firm makes an illicit profit at the least risk of detection if it accepts food stamps at full value for food from legitimate recipients, but uses them (illegally) to buy food at supermarkets for resale.

• In our estimate we are most concerned about evasion trafficking when it is linked to discounting (i.e., the firm buys food stamp benefits at a discount). We have no data to estimate the extent of evasion trafficking by unauthorized food stores or restaurants. However, evasion trafficking by authorized retailers is partially captured by our estimating procedure, when the trafficking involves discounting. The data we use to estimate direct trafficking adequately capture the rate at which all authorized stores engage in discounting. What the data fail to do is account for redemptions that are unreported by authorized discounting firms that buy food for resale with the coupons. If unreported redemptions could be measured, then the evasion trafficking factor would increase the national estimate of dollars diverted from food benefits by trafficking but would not change the store-based violation rates useful for targeting future action.

- Engaging in evasion trafficking was relatively easy with food coupons but is substantially more difficult under EBT.¹⁷ Because the only ones to find evasion trafficking cost-effective are small privately owned stores who have not yet switched to EBT, the potential impact of this factor is limited to a shrinking subset of the privately owned small-store component of our estimate.

2. The second potential cause of underestimation is network trafficking:

- Some violating stores will traffic with strangers while others restrict their illegal activities to people they know (which we label “network trafficking”). Investigators can and do catch this type of trafficking, but it requires a harder investigation.

• As a result, some network trafficking is included in our estimate (because our investigations include some cases where the network was penetrated and trafficking was caught). But other instances of network trafficking are not included in our estimate (because investigators were unable to penetrate the network and make the case). This source of underestimation applies to all components of our model. If investigators could catch all instances of network trafficking, the national estimate of trafficking diversions would increase.¹⁸

¹⁷The store owner would need to have possession of multiple EBT cards and make multiple trips to supermarkets (a small-store owner using more than one card to pay for a large purchase transaction would involve the supermarket in a violation that is readily detectable through the ALERT system; supermarkets are unlikely to accept that risk). Not only would the store owner need to have several cards and use them at several places (or on different days), for the practice to be worth the risk of getting caught the balances left on the cards would need to be large (which is not usually the case).

¹⁸An additional potential consideration is the quality of the investigation. Even when retailers are willing to traffic with strangers, investigators with greater experience and adequate time and resources to establish a case are likely to catch more trafficking than investigators with

SOURCES OF OVERESTIMATION

1. However, our procedure also overestimates other aspects of the trafficking problem. A first source of overestimation is the procedure used to determine legitimate food sales.

- With extremely rare exceptions, stores that engage in trafficking also sell food and we must allocate some proportion of their total redemptions to legitimate food sales and the balance to trafficking.¹⁹ We purposefully used very low figures to estimate the percentage of legitimate food sales by violating stores—this procedure serves our goal of assuring an estimate of the maximum benefits diverted by trafficking. The estimate of trafficking diversion would be lower to the extent that our method to estimate legitimate food sales was more precise.

- This consideration is especially relevant to the large-store components of our model (where most redemptions occur). We reviewed investigator reports in connection with cases of supermarket trafficking.²⁰ In supermarkets the percentage of total redemptions our methodology attributes to trafficking (40 percent) is about four times higher than experienced FNS field investigators attribute to trafficking (10 percent or less) when recommending sanctions or participating in other legal proceedings.

- To be consistent with the 1993 figures, we keep our method the same in this update report—but it is likely that the percentage of a store's redemptions we attribute to trafficking substantially overestimate trafficking, especially in supermarkets. Additional work is being conducted to determine whether better estimates can be created.

2. Another major source of overestimation is that investigations are a non-random sample of stores.

- Our estimating procedure relies on investigations targeted to find fraud: our estimate would decrease substantially if investigators had randomly selected average stores, rather than selected suspicious stores on purpose.

- Of our four technical considerations, this is arguably the one with the largest impact on our estimate and applies to all components of our model.

Ms. WATKINS. We can credit much of the decline to a strong economy and the enactment of welfare reform which resulted in a drop

less experience, time and resources. We believe the overall quality of investigations in our sample is high for two reasons. First, FNS investigative procedures provide adequate time and resources to establish a case. Second, in the earlier report we only used cases from 1991 and later, to ensure that investigators had at least 2 years of experience in establishing trafficking cases (or were hired with the understanding that trafficking cases were highest priority). In this report, most investigators have at least 6 years of experience in establishing trafficking cases, which strengthens our confidence in these estimates.

¹⁹On rare occasions phantom stores—i.e., fronts that take coupons but do not have a food business—are found. This phenomenon is likely to decrease in the future for two reasons: (1) FNS has expanded its staff resources to visit more stores in person; (2) EBT requires a visit from the EBT vendor to install terminals and the vendor will not install a terminal if they have questions about the legitimacy of the business.

²⁰In 1993 USDA investigators found no instances of trafficking at publicly owned supermarkets. Between 1995 and 1998, however, four cases of trafficking occurred in publicly owned supermarkets. Because there are relatively few investigations of supermarkets and because the redemptions flowing through supermarkets are so large, these four cases have a large apparent impact on trafficking rates. To be consistent, we report the trafficking rates exactly as computed in the first trafficking report. However, an examination of the four cases indicates that the procedures used in the earlier report significantly overstate the amount of redemptions trafficked in supermarkets. Relevant considerations include the following:

- Only a very small number of supermarket cases detect trafficking in any 1 year. Combining the data from the earlier report with this update, we found the following cases of trafficking in publicly owned supermarkets: 0 in 1993, 0 in 1994, 1 in 1995, 2 in 1996, 0 in 1997, 1 in 1998.

- Two of the four cases appear to involve the actions of a single clerk. In one of those cases, the clerk was not even at the cash register when the transaction took place. Two of the four cases, however, involved a lower-level manager at the store.

- In three of the four cases, redemptions at the supermarket were in a pattern of significant decline; two of the three were being closed. It is possible that upper management gave decreased attention to employee actions in such an atypical environment. (This speculation will be evaluated as additional supermarket trafficking cases emerge over the next several years.)

- The percentage of redemptions attributed to trafficking in these four stores by the investigators was substantially lower than the percentage we use in our calculations. In the first report when trafficking was found at a supermarket or large grocery we attributed 40 percent of the total redemptions in the store to trafficking. In these four instances of trafficking, investigators estimated that 10 percent or less of total redemptions were trafficked.

- In light of the above, the true rate of redemptions trafficked in supermarkets is likely to be substantially below the 3 percent figure in Table 3.

in the food stamp rolls. However, we can also credit our expansion, which you heard today, of EBT, electronic benefits transfer, and the continued aggressive enforcement efforts.

In addition, in spite of our limited resources, USDA has instituted several initiatives to combat trafficking and other violations. And I would like to cite six of those for you.

Number one, the Personal Responsibility and Work Opportunity Act of 1996 provided the Department with much needed authority to strengthen enforcement of program integrity and eliminate fraud by strengthening those penalties, not only against the recipients but against retailers as well. And, as a result, the Department now has and is using this authority to suspend retailers immediately for the most egregious program offenses: trafficking in food stamps and in EBT benefits.

The second one is that retailer oversight is a Federal responsibility. And it begins with the screening of retailers, seeking approval to accept food stamps or EBT cards at their stores by the Food and Nutrition Service.

All of our retailers are essential partners in the Food Stamp Program. Store authorization to participate is a privilege and not a right. And to participate, a store owner applies directly to one of our field offices, providing that office with detailed information on the store's sales, the food stock, and general business operations.

And, to the extent possible, when we have the resources available, the FNS field staff conducts site visits prior to authorizing a store to ensure that that establishment is, in fact, a food store and not a liquor store, not a dry cleaner's, and not an empty store front, or someone acting as a front for illegal activities.

Currently there are 170,000 authorized retailers participating in the Food Stamp Program nationwide. We recently began using contracted staff in cooperation with our own staff to start performing some of those pre and post-authorization visits to gather information on the nature of the business that is actually being conducted by the stores. But still, in spite of our rigorous screening procedures, some authorized stores have owners or employees willing to sell ineligible items or engage in trafficking.

Nationwide, FNS has a staff of only 46 Compliance Branch investigators that are dedicated to uncovering abuse by authorized retailers. Nevertheless, in the last 5 years, FNS has investigated over 24,000 stores suspected of violations across the country. And we do this by targeting our efforts on stores that are suspected of conducting illegal activities.

We found violations in 44 percent of the investigations. Agency investigators discovered trafficking, as opposed to the sale of ineligible items, in over 3,500 stores.

The third area: We are actively pursuing civil prosecution through the U.S. Department of Justice under the Civil False Claims Act against stores that are found trafficking in food stamps.

The fourth area that we're working on is issuing food assistance through electronic benefits. And that is also changing and improving the way we protect benefits from fraud and abuse by reducing street trafficking and by creating an electronic paper trail, linking those who cheat the program with crime.

Maryland, New Jersey, New Mexico, South Carolina, and Texas have all used the EBT data to identify recipient trafficking. You have heard from Texas. And you would hear similar kinds of evidence from the other States that I just mentioned.

To date, we estimate that 75 percent of all households are using an EBT card to access their benefits. Forty States plus the District of Columbia have now implemented food stamp EBT systems in either all or part of their states.

And all States should have EBT up and running electronically by 2002. We have already sent letters to the 12 States that are still waiting to implement EBT and encouraging those governors and those commissioners to work with us so that we can implement and have all States operating effectively by 2002.

Number five: Several years ago FNS successfully implemented an automated EBT anti-fraud system called ALERT. And that ALERT system records the EBT transactions electronically. It provides: a record of the store; the date; the time; the purchase amount; the recipient's card number; and the point-of-sale terminal, the POS.

The ALERT's computerized system examines and analyzes this data very quickly, identifies suspicious patterns, and it expedites our ability to investigate, process, and remove those stores who do violate the regulations for the program.

And, finally, the Department is conducting a series of national food stamp conversations around the country. The third one will be held tomorrow in New York. And we're soliciting input and ideas so that we can build on the successes in the program to reach all eligible individuals and families. We also want to simplify the program while at the same time maintaining the stewardship and effective measures of program performances.

I will be chairing these conversations. I chaired the one here in Washington. We had one last week in Atlanta, and then we will have three more, one in Kansas City, one in Los Angeles, and one in Dallas.

In closing, I want to thank you, Mr. Chairman and members of this Committee for your interest and your commitment and cooperation in working with the Department of Agriculture to protect the integrity of this program. We are very proud of the Food Stamp Program, and we want to assure you that we will do everything that's possible to protect the integrity of this program.

That concludes my prepared remarks, and I would be happy to answer any questions that you may have.

[The prepared statement of Shirley Watkins follows:]

PREPARED STATEMENT OF SHIRLEY R. WATKINS, UNDER SECRETARY, FOOD, NUTRITION, AND CONSUMER SERVICES, U.S. DEPARTMENT OF AGRICULTURE

Good morning, Mr. Chairman and members of the committee. I am Shirley Watkins, Under Secretary for Food, Nutrition and Consumer Services at the U.S. Department of Agriculture (USDA). I am pleased to join you this afternoon as your Task Force looks at the Food Stamp Program.

A crucial part of the President's and Secretary Glickman's commitment to delivering nutrition assistance to needy Americans is ensuring the integrity of the Food Stamp Program by protecting it from those who would misuse or abuse it. The Food Stamp Program is our nation's most important nutrition program, and protecting its integrity is one of our highest priorities. Food stamps are intended for food, and we do not and we will not tolerate fraud and abuse in the Food Stamp Program.

We work tirelessly to identify ways to strengthen program management and keep public confidence high in this vital program.

When individuals or retailers sell benefits for cash, it violates the intent and the spirit of the Food Stamp Program as well as the law. This practice, known as trafficking, reduces intended nutritional benefits and undermines the public's perceptions of the integrity and utility of the program.

The crucial question, I believe, for today's hearing, is to what extent does trafficking exist. Last week, we released a study, entitled "Extent of Trafficking in the Food Stamp Program: An Update," which shows that the level of food stamp benefits trafficked for cash dropped by 19 percent from 1993 to the period from 1996 to 1998. We estimate that stores trafficked about \$660 million per year. Furthermore, the trafficking rate—which compares dollars trafficked to benefits issued—declined 8 percent: from almost four cents of every dollar of food stamp benefits issued to three-and-one-half cents of every dollar issued. (Mr. Chairman, I ask that the study be included for the record.) While we can credit much of the decline on a strong economy and the enactment of welfare reform resulting in a drop of the food stamp rolls, certainly our expansion of Electronic Benefit Transfer, or EBT, and continued enforcement efforts have contributed as well.

In addition, USDA, in spite of scarce resources, has instituted several initiatives to combat trafficking and other offenses:

1. The Personal Responsibility and Work Opportunity Act of 1996 provided the Department with much needed authority to strengthen enforcement of program integrity and eliminate fraud by strengthening penalties not only against recipients, but against retailers as well. As a result, the Department now has and is using this authority to suspend retailers immediately for the most egregious program offenses—trafficking in food stamp and EBT benefits.

2. Retailer oversight is a Federal responsibility, and begins with the Food and Nutrition Service (FNS) screening retailers seeking approval to accept food stamps or EBT cards at their stores. Although retailers are essential partners in the Food Stamp Program, store's must meet all legal requirements in order to participate in the program. In order to participate, a store owner applies directly to one of our field offices, providing that office with information on the store's sales and food stock, and other business information.

To the extent possible and where resources are available, FNS field staff conduct store visits prior to authorizing a store in order to make sure the store is, in fact, a real food store and not a liquor store, a dry cleaners, or an empty storefront devoted to illegal activities. Currently, there are 170,000 authorized retailers participating in the food stamp program nationwide. We recently began using contract staff in coordination with our own staff to perform pre- and post-authorization visits to stores to gather information for us on the nature of the business actually being conducted by a store. Still, in spite of our rigorous screening efforts, some authorized stores have owners or employees willing to sell ineligible items or engage in trafficking.

FNS has a staff of 46 compliance branch investigators nationwide dedicated to uncovering abuse by authorized retailers; and, during the last 5 years, FNS has investigated over 24,000 stores nationwide suspected of violations. By targeting our efforts on stores suspected of illegal activities, we found evidence of violations in 44 percent of the investigations. Agency investigators uncovered trafficking—as opposed to sales of ineligible items—in over 3500 of these stores.

3. FNS' is actively pursuing civil prosecution through the U.S. Department of Justice under the Civil False Claims Act against stores found trafficking in food stamps.

4. Issuing food assistance benefits electronically is also changing and improving the way we protect benefits from fraud and abuse by reducing street trafficking and by creating an electronic paper-trail linking those who cheat the program with the crime. Maryland, New Jersey, New Mexico, South Carolina and Texas have all used EBT data to identify recipient trafficking. EBT is key to delivering food stamp benefits efficiently, affordably and securely to recipients. In 1992, barely 1 percent of all food stamp households nationwide were receiving their food stamp benefits electronically. Today, we estimate 75 percent of all households are using an EBT card to access their benefits. Forty States plus the District of Columbia have now implemented food stamp EBT systems, in all or parts of their States, and all States will be issuing food stamp benefits electronically by the year 2002.

5. Several years ago, FNS successfully deployed an automated EBT anti-fraud system called "ALERT." The ALERT system records EBT transactions electronically so that we have a record of the store, the date, the time, the purchase amount, the recipient's card number and the point of sale terminal. ALERT's computerized system examines and analyzes this data, quickly identifying suspicious patterns and

speeding our ability to investigate, process and remove cheating stores from the program.

6. Finally, the Department is conducting a series of national food stamp conversations around the country this summer to solicit input and ideas so that we can build upon the successes in the program to reach all eligible individuals and families; simplify the program while maintaining prudent stewardship; and effectively measure program performance. As a matter of fact, I will be chairing the next conversation tomorrow in New York City.

In closing, I want to thank you, Chairman Nussle, and members of this committee, for your interest, commitment and cooperation in working with the Department to protect the integrity of the Food Stamp Program.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions you may have.

Mr. NUSSLE. Thank you very much. And, as I stated, all of the witnesses' testimony and any statements by members will be put in the record at their appropriate point. We appreciate all of your testimony.

I would like to first turn to the ranking member, Ms. Clayton, for any questions she has for this panel.

Mrs. CLAYTON. Thank you.

I would like to ask the Inspector General if—you commented on the result of—

Mr. NUSSLE. He actually left.

Mrs. CLAYTON. I am sorry.

Mr. NUSSLE. He had to leave. I don't mean to interrupt.

Mr. DYCKMAN. Mr. Wood is with me. I am with the General Accounting Office. My apology.

Mrs. CLAYTON. I apologize. I just looked at the chair, not that you aren't better looking. But, anyhow, forgive me for that.

[Laughter.]

Mr. DYCKMAN. Well, we auditors look the same, I know.

Mrs. CLAYTON. Well, I wasn't going to say that. But, at any rate, is there anyone who can answer if there's any data to substantiate what all of you now have claimed, that having the EBTs you are able to actually identify quicker because you have that system?

And I guess the testimony from the gentleman from Texas was that they investigated I guess quicker and had some prosecution as a result of that. But is that across the board or is that spotty?

Mr. DYCKMAN. Let me just make a comment that there is no question that EBT is an extremely valuable tool for investigators. What is somewhat disconcerting, though, is that you would have expected that the rate of trafficking would have decreased substantially—

Mrs. CLAYTON. I would have, too.

Mr. DYCKMAN [continuing]. But that has not occurred. I mean, there has been about an 8-percent decrease in the rate of trafficking between 1993 and 1998. A part of that might be because that data is not exclusively based on EBT investigations, but from an investigative standpoint, it is a lot easier to identify potential recipient traffickers and store owners. Unfortunately, there is still a significant amount of trafficking.

Ms. WATKINS. There is a 19 percent decline in trafficking between 1996 and 1998. I think we are seeing some decline in trafficking and the rate of trafficking.

Obviously when you start looking at all of the States that have EBT and putting those measures in place, I am sure we're going to see an even greater decline in trafficking.

Mrs. CLAYTON. No. I had said in my testimony there were 37. You said there were 40. So I think Mr. Dyckman's comment is even more revealing having 40 States with statewide systems and not to see any more decline.

Do you see the vulnerability of the EBT system that is still lousy as the intent to commit crime is so pervasive that they will indeed continue?

Mr. DYCKMAN. It's a quick payoff. But in order for EBT to be effective, it has to be used more. We have recommended that and I think the Department is moving in that direction.

Mrs. CLAYTON. When you say "to be used," what does that mean? I thought they were using it.

Mr. DYCKMAN. EBT data has to be analyzed at the State level much more on a broad scale than it has. As of a year ago, only four or five States were actively using EBT to aggressively identify traffickers.

Mrs. CLAYTON. I see.

Mr. DYCKMAN. As more and more States use this and Ms. Watkins has indicated a couple of more States, I believe, I would hope to see, we would hope to see, a decline in trafficking. Clearly it's more difficult not to be caught if you have an electronic trail, but you have to have some degree of resources spent at the State and at the Federal level to pursue that.

Mrs. CLAYTON. My concern in my written statement was that I want to make sure we reduce and eliminate trafficking because I think any dollar misspent is a dollar taken away from the poor.

Mr. DYCKMAN. There is no question about it.

Mrs. CLAYTON. At the same time, I wanted to make sure as we move in that direction, that there is a balance. It's like you have a flood. And there are some people who are illegal standing in line but a lot of people who desperately need help from the Red Cross. And I just want to make sure that in our zeal to make sure that the trafficking is not occurring, that we are not eliminating people who are eligible.

Mr. Hartman, can you assure us that you have that kind of balance in Texas or other States? Since you are the only State here, what would you say to us to make sure that it ought to be there for that sensitivity indeed to catch the people who are taking the monies but not at the expense that everybody suspects or people who are hungry actually go unassisted and we feel good because our rolls are down but, yet, there are hungry people?

Mr. HARTMAN. When we first began our project to try to identify clients involved in trafficking, we were very careful to make sure that we went after clients where we had very substantial evidence against them for trafficking.

In fact, when we set our parameters, we doubled the suspicious transactions that we needed. And, instead of going with one, we went with three. We wanted to make sure that we gave every benefit of a doubt to a client who may have had one suspicious transaction. We wanted to make sure they had several before we looked at them.

When we first began our program, we started mailing out waivers to the clients, saying that we believed on this day, at this time, you trafficked in this amount of benefits at this store. And we were very specific with the information we provided to them.

And, as our statistics indicate, about 70 percent of the clients that we mailed the waivers to signed the waiver and acknowledged that they were involved in trafficking, and voluntarily allowed us to disqualify them from program participation.

Now, we only disqualified the adult member who was trafficking, not the remainder of the household. So it's only that adult that is disqualified. The remainder of the cases were sent for an administrative hearing.

In total, about 95 percent of all of the client cases that we have identified either signed the waiver or were found guilty in a hearing. We think that's a very good indication that we are targeting the right folks and that we're not including recipients who are not involved in trafficking.

Mrs. CLAYTON. Is your trafficking program separate from your whole food stamp administration or is there a dedication of resources? You have a very effective program in trafficking. Do you have a dedicated staff for that investigator to work which is different from eligibility and assistance?

Mr. HARTMAN. Yes, ma'am. Our Office of Inspector General in Texas handles all of the fraud investigations of program abuse in the Department of Human Services. This includes food stamps. In OIG, we have certain investigators that are dedicated to working the majority of their time in food stamp trafficking.

One of the reasons is that it takes an expertise to be able to do that. We need investigators who are able to go in and work undercover, and not everyone can do that. So we have a limited number. We have less than 10 statewide who are devoted to actually conducting retailer trafficking investigations.

Now, once we identify the retailer, we shut them down. We send the case to FNS and FNS takes them administratively off the program and we prosecute the retailer. It's at that point that we go back and identify the clients who trafficked at that store. We then handle the clients administratively.

We prepare cases administratively. We mail the waivers to the clients. We give them the chance if they want to voluntarily withdraw themselves or voluntarily give their consent for disqualification. Those are handled by administrative investigators, but our actual on-the-street food stamp trafficking is done by a very limited number of Office of Inspector General staff.

Mrs. CLAYTON. If your retailer is investigated and found trafficking, he is disqualified, but is he also prosecuted?

Mr. HARTMAN. Yes, ma'am. In Texas, we have a State law that allows us to prosecute food stamp trafficking. In fact, the State law was implemented back in the 1970's, shortly after the Food Stamp Program began. In 1995–1996, our State legislature amended it to include electronic benefits transfer.

The majority of retail investigations we work in Texas are worked in cooperation with USDA–OIG staff and with local law enforcement. We file those cases with our State district attorneys. We file criminal charges, and we prosecute felony charges on them.

We then refer the retailer to FNS for them to handle administratively. FNS authorizes the retailer, and only they can remove them from authorization.

Mrs. CLAYTON. Thank you, Mr. Inspector General.

Mr. NUSSLE. Mr. Hoekstra.

Mr. HOEKSTRA. I thank the Chair for yielding.

Ms. Watkins, is the estimated rate of food stamp trafficking around three and a half percent? Is that the number that you're using?

Ms. WATKINS. The estimated rate of trafficking that we have seen between the period of 1996 and 1998 is stores traffick about \$660 million. That's the estimated amount. And the trafficking rate?

Mr. HOEKSTRA. Yes. Of the dollars that are being put into food stamps, how much of that is being trafficked?

Ms. WATKINS. That's three and a half cents on the dollar.

Mr. HOEKSTRA. OK. Three and a half percent. Is the rate the same for a State like Texas as what it might be as the national average? Are you seeing a better rate in Texas because of the EBT and because of your enforcement mechanisms or don't you have a way of measuring that? Do either one of you have a response to that?

Mr. HARTMAN. I can tell you that since we started this in 1995, we have definitely seen a drop in the flagrant offenders for EBT trafficking. I am talking about retailers who were doing just huge amounts. They would buy from anyone. They were doing 80 to 100 thousand dollars a month in business that was straight trafficking.

Those have really disappeared. It took us about 3 years to weed them all out. Trafficking continues to exist, but it's much more subtle. The retailers that are involved in trafficking are much more careful because of our enforcement actions.

Mr. HOEKSTRA. So you would expect that you're less than three and a half cents on a dollar, but you're not sure?

Mr. HARTMAN. I can tell you that it's better than it was in 1995. I really couldn't tell you how many cents on the dollar. I have no information to support that one way or the other. But I can assure you that in Texas, due to our enforcement efforts, we have made a definite impact. We have made a very positive impact against food stamp trafficking.

Mr. HOEKSTRA. Mr. Dyckman, does GAO have any way of comparing the States that are vigorously enforcing through the use of EBT as to whether there is a better rate there versus those States that do not?

Mr. DYCKMAN. Unfortunately, we don't. Let me just say something about the rate. It is based on a study that, quite frankly, has some assumptions that may or may not be true.

I take umbrage with that rate of 3 or 3.5 percent. It is based on a set of assumptions that the study and the authors by their own admission point out might be higher or lower. I personally do not have 100 percent confidence that that is an accurate reflection. There is an assumption that trafficking occurs at the same ratio in stores that are investigated and in those that are not investigated. And that just seems counterintuitive.

So while we will use this rate as a yardstick, it is a very rough yardstick in my opinion.

Mr. HOEKSTRA. OK. Thank you.

Mr. Dyckman, under the Government Performance and Results Act, I mean—maybe, Ms. Watkins, you would want to address this as well. Have you established a plan to—recognizing that the 3.5 percent may or may not be a valid number, have you, though, based on that methodology established a target of reducing that 3½ percent to 1 percent or 2 percent and the steps that would be implemented to get us there or what are the targets and the goals that the Department has established for the Food Stamp Program and the fraud within the Food Stamp Program?

Ms. WATKINS. I would have to go back and look at our strategic plan. And I am not certain that I could provide you that information and let you know if we established a target for trafficking, but I am not certain of that. And I would want to be sure that I could give you the correct information. I'll be glad to provide that answer to you, and we can go back and look at our strategic plan.

We do have targets for everything. And I can't believe that we don't have targets for that. I just don't know what they are, but I'd be glad to provide that for you.

Mr. HOEKSTRA. OK. Mr. Dyckman.

Mr. DYCKMAN. Mr. Wood.

Mr. HOEKSTRA. OK.

Mr. WOOD. I would like to respond briefly to that. In our March report, we did address the goals that had been established in FNS's performance plan for 2000. And one of the things we observed is that the goal of increasing the integrity in the Food Stamp Program was based upon sanctioning, meaning going after and investigating 1,201 stores.

What we observed and believe is a better goal or strategy would have been to reduce trafficking, have a better estimate of total trafficking, and target your resources to reducing trafficking by going after the priority stores.

While you could investigate 1,201 stores and meet your goal 100 percent, but they may be the low-priority stores as far as trafficking. So it would be much better to use EBT data more effectively and target the stores that are more extensively involved in trafficking and try to reduce trafficking at these stores. Set your goal that you are trying to reduce trafficking to and the strategies needed to achieve the goal.

Mr. HOEKSTRA. What I think you just said is that this was a measurement of activity perhaps and not a measurement of results.

Mr. DYCKMAN. That is correct, sir.

Mr. HOEKSTRA. OK.

Mr. DYCKMAN. And clearly going after the store owners is the least costly and most leveraged way of using your resources because if you do not have a store that cooperates, recipients cannot traffick.

Mr. HOEKSTRA. Good. Thank you.

I yield back.

Mr. NUSSLE. Thank you, Mr. Hoekstra.

Let me play a little different role here, and my statement still stands. This is a very important program. I don't want anything I

am about to say to pollute that particular fact. Let's just take a look at this from a little different angle.

We've got a \$19 billion company. We're the board of directors here. And we discovered in 1993—actually, in 1995 that in 1993, we were losing \$815 million. All right? In the year 2000, we decided to do a study and look at the period of time from 1996 to 1998, a 2-year period, and 2 years after the information was stale found out that we had some improvement, now down to \$660 million we were losing as a company. That's the concern I've got. I can't imagine why anyone would have to check the records about what is an acceptable level of trafficking.

Now, I understand it is impossible—I prosecuted. And trust me. I prosecuted in Manchester, Iowa. And most people have a fairly Norman Rockwellian view of the Midwest and think there isn't much that goes on out there, but there is.

So I understand it's going to go on. We're going to have trafficking. But I cannot imagine how in the world we are as a country allowing an acceptable level to be 3.5 percent or almost close to a billion dollars worth of trafficking to go on in this country and to not have a fairly clearly defined action plan in order to get that done. That concerns me. But, more importantly than that, it concerns me that there is debate over the information that's used. That concerns me.

You know, should we use the EBT data? Should we use some other data? We're looking 2 years prior. We don't know what the trafficking is today. We know based on the report that was written and done in March but not released until last week. We know what the previous 2 years trafficking was all about, but we don't know what it is today. That concerns me a lot.

Now, I'd be happy to let you comment on that. And please do not misunderstand what I am saying, Madam Secretary. I am not suggesting that you're not concerned about that. I am not suggesting that at all. I am not suggesting you have any lack of concern for the people that are trafficking or for the clients that you are serving, for the beneficiaries that we are all serving.

I am not suggesting that at all, but what I am just curious about is that there isn't more of an urgency over this. I mean, in 1993, when Ms. Clayton and I sat on that committee and heard about this and asked for—the first one was a congressionally mandated study, if I am not mistaken, the one in 1993, due in 1995. That's not. I see some people shaking their heads.

We asked for it. I am sure it was a combined effort, if nothing else. But this last one, it just doesn't seem like there's much urgency. Am I wrong about that?

Ms. WATKINS. I share your concern. I think it's a valid concern, and we have requested funding in the budget years since I've been there so that we would have additional staff because you do need resources in order to identify and to work on these issues.

Just as Mr. Viadero said earlier, as did Mr. Hartman, these are very, very valid concerns for all of us, and we are not taking it lightly. But when you have limited resources, we don't have the availability of funds to do research to determine whether or not there are problems.

And I would agree with you we need some way of determining more quickly what is going on now. You have a \$19 billion business. You need to know what is going on today, and you don't need to be working off of 1998 figures.

Mr. NUSSLE. Right.

Ms. WATKINS. We don't have the capabilities to pull information. We are working to see how we can get data more quickly. Obviously with the new technology that's available, we should be able to respond more quickly to problems of trafficking and to some other issues.

It is a concern of mine. It's a concern of the Secretary's. And we have requested funding to look at these issues so that we can get something done about it. So you have a valid concern. And as this Committee looks at it, I think it's something that you can help us work on.

Mr. NUSSLE. All right. What is your request for next year? What do we need to do? Let's lay out a plan.

Ms. WATKINS. Let's lay out a plan. For the 2001 budget year, in the FPA account, we asked for an additional five million dollars.

Mr. NUSSLE. Five million. And what will that get us?

Ms. WATKINS. That would give us 69 staff-years to support our integrity activities.

Mr. NUSSLE. And what will we get as a result of that as far as a reduction in the amount of trafficking or an increase in investigations or implementation of EBT? What will be the year-end goal based on that increase?

Ms. WATKINS. The year-end goal would help us provide more staffing for our investigative team that does all of the small trafficking. The IG's office does the large, the really large, trafficking areas, and we handle all of the smaller ones. Obviously that adds up. So we would be able to reduce that trafficking amount. So we could reduce the trafficking.

Now, for EBT implementation, that is another part of our budget process. And that's working with the States so they can get EBT up and running by 2002.

Mr. NUSSLE. Yes. But the concern I have is, even if we increase it, let's double that. Let's give you ten million. All right? let's double that. What is the manageable expectation that we are shooting for? I mean, does your staff have with you the goal for our trafficking level that is part of your strategic plan?

Ms. WATKINS. I didn't know—

Mr. NUSSLE. I can't believe you do not have that with you.

Ms. WATKINS. Well, I did not bring it. If I had known you wanted, that I would have had the strategic plan with me. I did not bring the strategic plan. If I could provide—

Mr. NUSSLE. I am not suggesting you don't have one. Lay out in here—

Ms. WATKINS. Oh, yes, we do.

Mr. NUSSLE. I am sure you do. You lay out in here five different steps. And I assume these are the steps that you are hoping to take in order to reduce trafficking.

Ms. WATKINS. The steps that we have identified today in the testimony are things that we are already doing. Obviously there are additional things that we can do.

Mr. NUSSLE. OK.

Ms. WATKINS. Yes.

Mr. NUSSLE. And that's what I am searching for. Such as? What are we going to do?

Ms. WATKINS. That's the reason why I said I will provide you the data—I don't want to give you the information that I would pull out of the air without actually getting that off of the strategic plan. And I will provide that for you, the actual steps that they take.

Mr. NUSSLE. You didn't bring that along today?

Ms. WATKINS. No, I did not. And, Mr. Chairman, if I had known—

Mr. NUSSLE. You started by saying you worked tirelessly.

Ms. WATKINS. That's exactly right. And if I had known, if your staff had told me, that you wanted the strategic plan, I would have provided that and I would have come in here with a strategic plan and all the steps. And you would have had that. And I will provide that for you.

Mr. NUSSLE. And you have one written?

Ms. WATKINS. Pardon me?

Mr. NUSSLE. There is one already completed?

Ms. WATKINS. Oh, yes. We—

Mr. NUSSLE. Is there somebody who can at least give me a ballpark of what we're talking about? This is the only hearing we're going to have on this for a little while. And I am interested in at least a couple of things that we can report to our colleagues that we're going to be working on because just to say that there was a problem 2 years ago and just to say that that's the first time we've known about that since 5 years ago concerns me.

And I can tell just by the conversation we're having here that you're a sincere, thoughtful person who is very interested in solving this. I can tell that. So based on what you already know, I know you can pull a few of these off the cuff. I just know that.

Ms. WATKINS. I have learned from my years in working at USDA and the many times that I have testified before congressional committees it's best to provide you the accurate information. I am not going to sit here and give you any false information or guess. I want to give you accurate information, and I will provide that for you. I hope you understand. I just don't want to give you any false information and give you false expectations.

Mr. NUSSLE. Well, no. And I am not interested in false information. I just am very surprised that—and I am not suggesting this in any kind of way to be concerned about you personally or your agency, but I am very surprised that on a hearing involving trafficking to discuss a report that has just been released that is now almost 4 months old that also as part of that, you aren't prepared to discuss what you and the United States Department of Agriculture are prepared to do about that and any recommendations that you have because I will just tell you—and this is the concern that we have almost constantly.

I cannot go forward to the Agriculture Committee or to the Appropriations Committee on Agriculture and suggest that five million dollars is going to solve anything unless I know the rest of it. And so that part does concern me.

I have some other questions, but I would be happy to turn it over to Ms. Clayton or Mr. Hoekstra if they have any follow-up as well. Ms. Clayton.

Mrs. CLAYTON. I do. Thank you.

It's not necessary to try to resurrect you, Ms. Watkins, because I think you can do that yourself, but let's act off of what you did present us. You gave the things you are now doing. And one of them was that the retail oversight is a Federal responsibility.

Can you tell us—and maybe you don't have the information. Perhaps others on the panel may have. To what extent can you tell us the percentage of stores that are investigated prior to authorization?

You said you now have this authority. You can investigate stores prior to authorizing them if there are fronts or liquor stores, dry cleaners. To what extent have you investigated them? And is there any data there?

Ms. WATKINS. Let me just ask the staff on the number, actual number, that we go in on—

Mrs. CLAYTON. Actually, you have a number as a percent. You had 24,000 stores nationwide. I am sorry. I am misreading it.

Ms. WATKINS. We have investigated the 24,000 stores.

Mrs. CLAYTON. Yes, who are suspected of violation.

Ms. WATKINS. Right.

Mrs. CLAYTON. The question is—

Ms. WATKINS. You want to know the—

Mrs. CLAYTON. What's the result of that? You investigate them, and what happened?

Ms. WATKINS. Once those stores are investigated, if we have or if they are suspected of trafficking, in all of those, we have found evidence of about 44 percent of those investigations where they were actually trafficking.

Mrs. CLAYTON. OK. Now, what kind of resources do you have now that result in those kind of results? The question the Chairman asked—now, again, I am not asking you for any numbers, but it would seem to me if you have been asking for resources and you have had limited and here is what your results are, now you are asking for additional resources.

So there is an expectation I think from increased results or as a result of having new staff to go along with that. At least these activities will be enhanced, even if you didn't do other activities.

Ms. WATKINS. The activities would be enhanced, Mrs. Clayton. What we are hopeful is that if we get additional staff, we'll be able to provide more people, who will be able to not only help the contracted services, but our field offices would be expanded to go out and do the investigations and to review those stores before they are actually authorized.

The States are working with our regional staff. The regional staff is providing some training. And for many of them, that is an ongoing activity. But when you go in with the small regional field office staffs that we have, they go in to actually do some of the pre and post-reviews before stores are authorized.

Mrs. CLAYTON. Right.

Ms. WATKINS. And that's a pretty awesome number with the small staff that we have in our field office. So that was why the

request was made to get additional staff, so we would be able to review those stores before they were actually authorized.

Mrs. CLAYTON. Well, there is valid reason for wanting to prevent crime, rather than just prosecute crime. Even a prosecutor knows there is value in prevention. But, again, if you know what the result of that prevention has been, then obviously you can make a better case for getting more resources to prevent it.

I just think there is some value in having some numerical expectation of the activities you now have with scarce resources. As I said in my opening remarks, I think if we really want to, you know, slew this lion, this giant of trafficking, we have to have enough resources to do that. But in having resources, we want the resources with an expectation of achieving and eventually eliminating, achieving in a certain period of time.

And I think what Mr. Hartman demonstrated, although he couldn't tell specifically how many in Texas, what he knew is that his effort had been successful in getting the big offenders or those who indeed were so flagrant and arrogant and persistent they have ceased.

I mean, I know the percentage. So you know with more effort, you eliminate more. So I think there is some value in approaching this in a numerical way, rather than just a general way. I think the persistence for wanting numbers has some validity for it and just makes the case better.

I think all of us want to achieve eliminating traffick because I've stated what my preference is, to make sure we have balance in that because I get, you know, mighty nervous, Mr. Hartman, when I see you reduce your level so low.

I get very nervous in my own State when they reduce their level because I know that 3.6 million people out there whom we can document that are hungry. So I want to make sure as we reduce the traffick, I want the resources to go to those who are hungry. But I don't want us in our zeal to ignore that there are people who really need to have food and assistance in that area.

Mr. Chairman, those are the end of my questions.

Mr. NUSSLE. Mr. Hoekstra.

Mr. HOEKSTRA. I thank the Chair.

I just want to bring out one point. And, Mr. Dyckman, maybe you can correct me if I am wrong.

When we're talking about the Department of Agriculture, one of the things that we do have to keep in mind is that they received a disclaimer of opinion on their financial audits, which means, at least as we have taken a look at the Department of Education and as we have taken—my experience out of the private sector is that almost any of the numbers that you look at as you go through the Department and the agency, you need to be a little bit suspicious of because the auditors have said that the internal financial controls, the reporting systems lack the integrity and the security that they demand as they go through the audit to tell you that those numbers are actually an accurate reflection of the current conditions or the performance during the previous year of that department or agency. Is that not correct?

Mr. DYCKMAN. That is correct, sir.

Mr. HOEKSTRA. Yes. And I think other than not even turning in a report, which would be the worst situation which we have a few departments and agencies that miss that criteria, the Agriculture Department would fall into the next level of concern, which is a disclaimer of opinion, which is I think a very negative, a very bad position to be in, which says that the books are in such a condition, in such a state that the auditors even feel uncomfortable rendering an opinion.

And I know that from our work at the Department of Education, which is actually one level above that, they received a qualified opinion. And that's pretty ugly, the performance over there.

So I just want to get that in the record that as we talk about the performance, we have to recognize that we're not necessarily even working off of a clean set of books with people telling you that these numbers accurately reflect what's going on. So it's even one more caveat as we move forward.

I hope that the Department has an aggressive plan in place to get a clean audit one of these days so that we can have a high degree of confidence that the numbers that we're talking about actually reflect what's going on.

Ms. WATKINS. I am smiling because I can sit here and tell you that since I've been the Under Secretary in Food and Nutrition and Consumer Services, we're one of the agencies at USDA that has received a clean opinion.

Mr. HOEKSTRA. Well, I am glad you have because, as a whole, the Department has not. Congratulations to you in that work. And I hope that the rest of the agency—

Ms. WATKINS. And we have done so for the last two and a half years. So I am real proud of that.

Mr. HOEKSTRA. And I hope that the rest of the agency or the rest of the Department of Agriculture learns from what you're doing in your niche of that agency because the bottom line is still for the entire Department the auditors are saying, you know: We're concerned, and we're not ready to even render an opinion.

I yield back. Thanks.

Mr. NUSSLE. Thank you, Mr. Hoekstra.

I, too, want to compliment you on that, on the fact that if you're receiving clean audits, that's certainly what we're hoping to achieve because we want to be able to measure that.

I think there's some encouragement, though, in one of the areas. And part of the reason I asked you the questions about the action plan is that—and maybe this is just me being suspicious. But somebody who can pull out of their hat, so to speak, next year's budget request, my guess is you could also probably come up with a strategic plan for me today, too. But I'll get off of—

Ms. WATKINS. I will. And I'll have it here this afternoon.

Mr. NUSSLE. All right. Well, I will get off of that for just a moment, but I am interested in seeing that.

One of the things I would like to ask Mr. Dyckman and his folks is the whole issue of just data and oversight and how often should we be looking at the information. How often would you recommend to the Secretary to be doing that or to us in Congress?

How often should we be doing these kinds of reports that seem to me at least—and it does seem also to the Secretary—I don't

want to put words in your mouth, but seem to be too few and too far between.

Mr. DYCKMAN. I think the issue of food stamp trafficking and the financial consequences of that and the social consequences of that, which are even more important, are critical for our periodic oversight.

And I would suggest that on an annual basis, the Department reports to the Congress what progress it has made in getting rid of the unscrupulous storeowners and reducing trafficking. And to do that, you have to have reliable figures.

Now, I am not saying it is easy. It is a difficult task to estimate nationwide trafficking. I mean, the data does not exist in EBT. You have to come up with projections. But if you could routinize that at the Department and if the Department could make that a high priority and have an outcome-oriented approach to that and if Congress could have annual oversight hearings on that subject, I think everyone will be better served.

Mr. NUSSLE. Another issue that comes up—and this will maybe end up being in the form of a recommendation. It starts with a curiosity. As I read the report, my understanding is that 14 percent of all of the food stamp benefits—and hear me out here because if these aren't right, I want to make sure I get this right—14 percent of all of the food stamp benefits go through stores that have been profiled by your report to be the kinds of stores that are likely to engage in trafficking. And I want to make sure I am using that correctly.

Obviously 14 percent are the ones that you would suggest are ones that are probably in a category that are typically engaging in this kind of activity. All right? But of the stores most likely to traffick, they include 71 percent of all of the stores that are certified. And I see your staff is shaking their heads. So I think I am saying that right.

Now, let me make sure I am getting that right. Fourteen percent of all of the benefits go through 71 percent of stores. And those 71 percent of the stores are likely to be trafficking.

Now, one of my immediate questions that come to mind is: Shouldn't we be changing the criteria of the kind of stores that we're authorizing and in order to try and eliminate from the certification process, stores that you perceive to be likely kinds of operations to be trafficking?

And you mentioned a few storefront kinds of operations that are mobile or that are involved in liquor or other kinds of activities. I mean, one of the criteria I would hope is part of the strategic plan is just a consideration for a change in what seems to be a pretty target-rich environment. And those are the 71 percent of the stores that are certified that seem to be likely for one reason or another.

Is that a fair place to begin at least part of our search?

Ms. WATKINS. That is a fair place to begin in looking at the kinds of stores that are there and looking at the assessment that we use. So yes, that is fair.

Mr. NUSSLE. And then the other question or point I'd like to just ask or have you comment on is this issue of the annual review. I mean, I am very troubled, and I can tell by the way you presented

it you seem to be troubled by the fact that we're getting a report from 2 years ago.

Mrs. CLAYTON. Mr. Chairman.

Mr. NUSSLE. Yes. I am sorry.

Mrs. CLAYTON. Can I ask—

Mr. NUSSLE. I would yield, yes.

Mrs. CLAYTON. On your first question—

Mr. NUSSLE. Yes.

Mrs. CLAYTON [continuing]. About the typical profile store, I guess I would just want to enter into the record there are some stores who are in poor areas. And then you have a question here: Is more crime more likely to happen in rural areas or in urban areas? I didn't want his response to assume that these stores either had one flavor or another or a poor area.

Then another question says "trafficking more frequently in the poorest of poor neighborhoods." Table 16 says, "The trafficking rate is slightly higher in urban areas."

Now, is there a disaggregation of the—the stores that have that profile, are they more likely to be in any one of those areas? Are they in all three of those areas?

If you look at the poorest of the poor areas, some shoddy things go on in some poor areas. But also occasionally some shoddy things go on in non-poor areas. But it is understood where you have operations with chain stores in more affluent areas, you may have less trafficking in that area.

I just want to make sure we understand that there are some culture issues around those, too.

Mr. NUSSLE. No question. And that's why I was very careful when I asked the question. I mean, I do not want to—because you and I both represent similar kinds of areas in that you don't necessarily have a Safeway or a Giant or whatever out in the middle of—you know, it may be a Mom and Pop kind of an operation.

But if Mom and Pop have got—what was that figure?—\$295,000 running out the back door, I mean, Mom and Pop need to have—I mean, that sounds quaint and Norman Rockwellian, but we have got to figure out a way to deal with it.

So my only point was: Is the criteria on the front end for certification one of the areas within the strategic plan that you're considering some type of changes and improvement? And you indicated that that was one of the areas that you were looking at.

The last issues—I am sorry—that I wanted to just touch base on was the whole issue of the reporting and oversight, both on your part and our part. It was suggested by the folks at the General Accounting Office that we should do this on an annual basis. Is that possible? Can we begin that kind of a process?

You came in in 1997. It seems to me that you have tried to enforce that. It sounds like it's one of the first things that you did. My understanding is the report that was released here this last week is a report that you requested. This isn't Congress. This isn't Eva Clayton and Jim Nussle and Peter Hoekstra asking for it. You did this, and I commend you for it.

Is there a way that we can help you other than you mentioned a little bit of money. We'll talk about that. Is there anything else that we need to do in order to get these kinds of annual reports

with better information and better data so that we can look into this more deeply next time?

Ms. WATKINS. Currently we don't have the authority to continue to do the kind of report that I requested. Of course, when I started and requested this kind of information, we had the legislative authority to use some of our funding to do studies like this.

This would have to be requested that ERS would do this kind of study for us on an annual basis as a part of the research and the data collection and analysis. So I think it's feasible, but that request would need to be made from Congress to ERS to get accomplished for us.

Mr. NUSSLE. Is that GAO's understanding as well?

Mr. DYCKMAN. It is a little murky here, Mr. Chairman. The Department claims that they do not have authority to spend research on food and nutrition issues, but they do spend. They do perform research on food and nutrition issues.

And, quite frankly, I do not have a definitive opinion on that. It is a murky area. I suspect that they can do this, but I am reluctant to give you a final answer today.

Mr. NUSSLE. But you're saying you don't.

Ms. WATKINS. I can read the language, Public Law 106-78, October 22, 1999, prevents us from funding any of the developmental work needed to use EBT data to develop any reliable measures on trafficking. And it states, "Food Stamp Program for necessary expenses to carry out the Food Stamp Act, 7 U.S.C. 2011, provided that none of the funds made available under the head shall be used for studies and evaluation."

Mr. NUSSLE. Well, now, how does that square, then, with the new ALERT Program?

Ms. WATKINS. We have—

Mr. NUSSLE. My understanding is that that is in an attempt to use exactly the EBT data in order to provide that kind of information so that you can process and investigate and research what is happening.

Ms. WATKINS. Well, we can't do any research. We can't do any studies and evaluations. And according to Congress, that's a part of research and studies and evaluations. We can't use our funds in FNS for any studies and evaluations. It would have to be done through ERS. And that's why I am saying request for ERS to do it.

It can be done. ERS would have to be directed to use some of the funding to do that.

Mr. NUSSLE. OK. Are there any other questions or anything else that members would like to—I really appreciate you allowing us to ask a couple of rounds of questions, be a little bit less formal today and do that. I know all of the members, including myself, would be very interested in any recommendations you would make.

And I am very serious about what I stated. We feel that this is a responsibility that we all share. We want to make sure that the young people, in particular, but everybody who is in need of food and nutrition services get those services that they deserve. That's the reason we have the program, but we want to stop the nonsense that's out there, too, and the crime.

And so anything we can do to work together on that to help implement your strategic plan, we'll look forward to working with you. And we thank all of the witnesses for their information and their testimony today. And we'll dismiss you at this point.

Thank you.

Ms. WATKINS. Thank you.

Mr. DYCKMAN. Thank you.

Mr. NUSSLE. And now we'd like the second panel to come forward. The two witnesses that we have on the second private sector panel—we had a governmental panel. Now we have a private sector panel. We have invited a couple of people, and I see that we have one that may have changed.

So I'll introduce that Ms. Sheila Zedlewski, who is the Director of the Income and Benefits Policy Center of The Urban Institute, is with us; and from the Center on Budget and Policy Priorities, Mr. David Super. Is that correct?

Mr. SUPER. Yes. Thank you.

Mr. NUSSLE. OK. And so why don't we ask Ms. Zedlewski to present her testimony at this time. Your entire testimony will be entered into the record. We would like you to summarize, if you can, and do it within about a 5-minute period.

Ms. ZEDLEWSKI. Thank you. Thank you for the opportunity to address the Committee.

STATEMENT OF SHEILA R. ZEDLEWSKI, DIRECTOR, THE INCOME AND BENEFITS POLICY CENTER, THE URBAN INSTITUTE; ACCOMPANIED BY DAVID A. SUPER, ESQUIRE, GENERAL COUNSEL, CENTER ON BUDGET AND POLICY PRIORITIES

STATEMENT OF SHEILA ZEDLEWSKI

Ms. ZEDLEWSKI. The Food Stamp Program, a cornerstone of the income security policy in the United States since 1961, was designed to ensure that all Americans have enough to eat. Yet, the program is falling farther and farther short of this mission. Many families are leaving the Food Stamp Program, even though many report difficulties paying for food and are eligible to receive benefits.

States face a delicate balance between implementing initiatives to reduce trafficking and errors in the program and encouraging more low-income families who qualify for benefits to participate.

I'd like to draw your attention to six important issues. First, recent declines in program participation have exceeded what we could expect from a strong economy or changes in program rules.

Many witnesses this afternoon have highlighted the recent steep declines in food stamp participation. Indeed, the strong economy can take credit for an important share of this decline. However, a considerable body of research now shows the declines have far exceeded what can be explained by economic factors or program changes enacted as part of welfare reform in 1996.

Second, the need for food assistance persists among American families, as has also been stated earlier. For example, last year, three out of ten children in the United States lived in families that reported they either worried about or experienced difficulty in af-

for food, according to The Urban Institute's 1999 national survey of America's families. The percent reporting difficulties affording food was down only slightly, by 3 percentage points, from levels reported in the same survey 2 years earlier. Half of children with families below 200 percent of poverty lived in families with some food insecurity.

Third, food stamps offer an effective income supplement for working poor families. Many parents, especially single mothers who recently left welfare, work full-time and still earn less than the poverty line for their families. Food stamps can provide an important supplement to their incomes until they move up in the labor market.

For example, a single parent with two children working full-time at a minimum wage job for a year would earn an income of around 75 percent of poverty. She could also receive about \$3,000 in food stamps for her family, increasing her family's income to about 94 percent for that year.

Despite the potential value of food stamps, many families do not enroll. We at The Urban Institute have recently estimated that program participation nationally for all households was about 50 to 55 percent in 1997, down considerably from earlier years.

Participation rates are especially low for working poor families. The evidence is strong. For example, my own research has shown that most families who left welfare also left the Food Stamp Program, even though they were still income-eligible for benefits. A particularly troubling finding was that only one-half of families who left welfare with incomes below 50 percent of poverty received food stamps.

State studies that used matched administrative data to investigate food stamp participation of welfare leavers confirmed this finding. Most find that only about half participate in food stamps in the first quarter after leaving welfare and participation drops off further with time.

Fifth, program complexity discourages families' participation. Recent focus group discussions among working poor and poor elderly households confirmed earlier studies about what we know about reasons for low participation.

Families often lack information about the program. They perceive they don't need these benefits. They think the costs of participating is too high or they have negative feelings about the program.

In short, the program is so complex that many families do not know they are eligible. They report confusion about eligibility rules, resource and income limits, and deductions. Some families are deterred from applying for benefits because the process is time-consuming and complicated. It's often difficult to get to the welfare office. The process is demeaning. And many offices are unsafe.

Finally, program improvements must include more effective outreach. Reaching out to individuals who may be eligible for food stamps must become a priority for the Federal, State, and local government agencies.

States can receive a 50 percent Federal match for funding outreach activities, but only 9 States applied for these funds in 1999. Most of these States contract with nonprofit community-based or-

ganizations to provide outreach to help families with the application process, their document preparation, and translation services.

States can also extend office hours in the morning, evening, or weekends to lessen the burden on working families. They can collaborate with other programs serving low-income families, such as job training centers, HeadStart programs, and WIC offices, to inform families about the full set of work supports available to them.

Many State agencies also need to make administrative changes to ensure that families who leave welfare or get diverted continue to receive benefits as long as they are eligible.

These program innovations will take time, investment by the States, and commitment by caseworkers. Federal administrative funds and encouragement will be essential to ensure that the Food Stamp Program works for working poor families.

I thank you again for the opportunity to address this Committee. [The prepared statement of Sheila Zedlewski follows:]

PREPARED STATEMENT OF SHEILA R. ZEDLEWSKI,¹ DIRECTOR, THE INCOME AND BENEFITS POLICY CENTER, THE URBAN INSTITUTE

Thank you for the opportunity to address the Committee about current trends in the Food Stamp Program (FSP). The Food Stamp Program, a cornerstone of income security policy in the US since 1961, was designed to ensure that all Americans have enough to eat. Yet the program is falling farther and farther short of this mission. Many families are leaving the food stamp program even though many report difficulties paying for food and are eligible to receive benefits.

I'd like to draw your attention to six important issues:

1. *Recent declines in program participation have exceeded what we could expect from a strong economy or changes in program rules.*

As you are well aware, total food stamp program participation has declined from 28 million persons in 1994 (the program's peak) to 17 million persons in March 2000 (38 percent).² Indeed the strong economy can take credit for an important share of this decline. However, a considerable body of research shows that declines in participation have far exceeded what can be explained by economic factors or program changes enacted as part of Federal welfare reform in 1996.

2. *The need for food assistance persists among American families.*

For example, last year 3 out of 10 children in the US lived in families that reported they either worried about or experienced difficulty affording food according to the Urban Institute's 1999 National Survey of America's Families.³ The percent reporting difficulties affording food was down only slightly (by 3 percentage points) from levels reported in the same survey 2 years earlier. Half of children in families with incomes below 200 percent of poverty lived in families with some food insecurity.

3. *Food Stamps offer an effective income supplement for working poor families.*

Many parents, especially single mothers who recently left welfare, work full time and still earn less than the poverty line for their family. Food stamps can provide an important supplement to their incomes until they can move up in the labor market. For example, a single parent with two children working full time at a minimum wage job for the year would earn an income around 75 percent of poverty. She could also receive about \$3,000 in food stamps for her family, increasing her family's income to about 94 percent of poverty.⁴

4. *Many low-income families who qualify for food stamps do not receive benefits.*

Despite the potential value of food stamp benefits, many families do not enroll in the program. Historically, program participation rates have been around 70 percent, but the rate has fallen in recent years. We recently estimated that program partici-

¹ This statement reflects the views of the author and does not necessarily represent the views of the Urban Institute, its sponsors, or its Board of Trustees.

² Monthly caseload data, the Food and Nutrition Service, 2000.

³ The National Survey of America's Families (NSAF) is a nationally representative survey of over 44,000 non-aged families. The survey was conducted in 1997 and 1999 at the Urban Institute as part of a large, multi-year study called Assessing the New Federalism.

⁴ Calculation assumes no income beyond earnings, a maximum child care cost deduction for children older than two, and no excess shelter cost.

pation for all households was just above 50 percent in 1997.⁵ Participation rates are especially low for working poor families. As families have left welfare to join the ranks of the working poor, they are leaving behind food stamp benefits.

The evidence is strong. For example, my own research has shown that most families who left welfare also left the food stamp program even though most were still eligible for benefits.⁶ A particularly troubling finding was that only one-half of families who left welfare with incomes below 50 percent of poverty continued to receive help from food stamps.

States studies that use matched administrative data to investigate food stamp participation of welfare leavers confirm this finding. Most find that only about half participate in food stamps in the first quarter after leaving welfare and participation drops off further with time.⁷

More recently, an econometric study completed by the Economic Research Service estimated that 55 percent of the total decline in participation from 1994 to 1998 was due to a decline in the proportion of low-income people (income below 130 percent of poverty) who participate in the FSP. They conclude that "this pattern corroborates other evidence that a large number of low-income families are disappearing from the food stamp rolls."⁸

5. Program complexity discourages participation.

Recent focus group discussions among working poor and poor elderly households confirmed earlier research about reasons for low participation: families often lack information about the program; they perceive that they do not need benefits; they don't think applying for a small amount of benefits is worth it; they think the cost of participating is too high; and they have negative feelings about participating in the program.⁹

In short, the program is so complex that many families do not know that they are eligible. They report confusion about eligibility rules, resource and income limits, and deductions. Some families report that they are deterred from applying for benefits because the process is time consuming and complicated, it is difficult to get to the welfare office, the process is demeaning, and the office is unsafe.¹⁰

6. Program improvements must include more effective outreach.

Reaching out to individuals who may be eligible for food stamps must become a priority for federal, states, and local community agencies. States can receive a 50 percent Federal match for funding outreach activities, but only nine states applied for these funds in 1999.¹¹ Most of these states contract with non-profit community-based organizations to provide outreach services. They assist families with the application process, documentation preparation, and provide translation services. States also can extend office hours in the morning, evening or weekends to lessen the burden on working families. They can collaborate with other programs serving low-income families such as one stop job training centers, Head Start programs, and WIC offices to inform families about the entire set of work supports available to them. Many state agencies also need to make administrative changes to ensure that families who leave welfare or get diverted from welfare continue to receive food stamps as long as they are eligible.

Program innovations will take time, investment by the state, and commitment by caseworkers. Federal administrative funds and encouragement will be essential to ensure that the Food Stamp Program works for working poor families.

Mr. NUSSLE. Thank you.

Mr. Super.

⁵The Urban Institute's Transfer Income Model, version III, based on the March 1998 Current Population Survey.

⁶Zedlewski, Sheila and Sarah Brauner, 1999. "Declines in Food Stamp and Welfare Participation: Is There a Connection?" Washington DC. The Urban Institute.

⁷Acs, Gregory and Pamela Loprest, 2000. "Studies of Welfare Leavers: methods, Findings, and Contributions to the Policy Process," Paper prepared for the National Research Council's Panel on Data and Methods for Measuring the Effects of Changes in Social Welfare Programs, Washington, DC. The Urban Institute.

⁸Wilde, Parke et al. 2000. "The Decline in Food Stamp Program Participation in the 1990s." U.S. Department of Agriculture, Economic Research Service, Food Assistance and Nutrition Research Report Number 7, Washington, DC. USDA.

⁹McConnell, Sheena and Michael Ponza. 1999. "The Reaching the Working Poor and Poor Elderly Study: What We Learned and Recommendations for Future Research," Mathematica Policy Institute 8305-013 for the USDA.

¹⁰See "Food Stamp Program Client Enrollment Assistance Demonstration Projects: Final Evaluation Report," 1999, Food and Nutrition Service, USDA (July) for a discussion of these issues.

¹¹These states are Arizona, Connecticut, Kentucky, Massachusetts, New Hampshire, New York, Tennessee, Vermont, and Washington.

Mr. SUPER. Thank you very much, Mr. Chairman, Representative Clayton, Representative Hoekstra. I appreciate the opportunity to address these important issues involving the Food Stamp Program before you today.

STATEMENT OF DAVID SUPER

Mr. SUPER. My name is David Super. I am General Counsel of the Center on Budget and Policy Priorities. The center is a non-profit organization that conducts research and analysis on an array of policy issues at both the Federal and State levels. We receive no government funding.

As an organization concerned about low-income people struggling to feed their families, we feel very strongly that no food stamps ought to be issued to ineligible people. We are equally concerned that when food stamps are issued correctly, that they not be mis-used through trafficking.

Although trafficking in properly issued food stamps does not constitute a monetary loss to the Federal Government and eliminating all trafficking would not produce any budgetary savings, trafficking does undermine public trust and should be vigorously pursued. And we appreciated hearing about the efforts earlier that a number of the other witnesses and agencies were engaging to that effect.

Just as we're concerned about improper issuances and improper use of benefits, we are also concerned that when eligible families are in need of food stamps, that they have a fair option to obtain those benefits. We applaud the Committee for its interest in all of these challenges facing the Food Stamp Program today.

With regard to trafficking, we were pleased to read in USDA's report that the overwhelming majority of food stamp benefits continue to be used for their intended purposes and that the incidence of food stamp trafficking appears to be declining.

Any trafficking is too much, but it's heartening to see progress being made. This may well be a result of the bipartisan anti-fraud provisions of the 1996 welfare law as well as greater movement toward EBT and some of FNS' efforts that were described earlier to partner with States and others to bring more resources to bear against the traffickers.

We hope the Congress and the administration will work together to make further progress in this area, in particular, by providing FNS with the resources it needs, both for additional compliance and enforcement staff and also for a research budget that could, among other things, help the agency understand better how traffickers operate.

We also hope that Congress and the administration will work together to ensure that food stamps are available to eligible low-income families that need them. In their May 1999 report entitled "Welfare Reform Has Already Achieved Major Successes: A House Republican Assessment of the Effects of Welfare Reform," Speaker Hastert, Representatives Nancy Johnson, Bill Archer, and Clay Shaw make the point that food stamp benefits play an important part of the Federal Government's commitment to making work pay. Food stamps can supplement the low wages that many families moving from welfare to work are earning.

Leaders of both political parties and officials of conservative and liberal think tanks alike have urged that a family working full-time throughout the year should not have to live in poverty. This goal largely shaped the bipartisan expansions of the Earned Income Tax Credit through the late 1980's and early 1990's so that the EITC is now designed so the full-time year-round minimum wage work plus food stamps plus the EITC bring a family of four to or very close to the poverty line. If you take food stamps out of that equation, the family falls at least one-fifth short of the poverty line.

In the report on welfare reform last year, Speaker Hastert, Representatives Johnson, Archer, and Shaw noted that, quote, "Case-load data from the Food Stamp Program and the Medicaid Program seem to indicate that many adults and children who meet the demographic income and resource standards for these benefits are not receiving them. There is concern among program administrators and other experts that there are probably many children eligible for Medicaid and food stamps who are not receiving them," unquote.

The evidence suggests that the decline in food stamp participation is significantly larger than can be explained by the economy and food stamp changes in the welfare law. The reduction in food stamp spending in recent years—and we have provided a chart to the Committee to demonstrate this—has been far greater than Congress sought or anticipated when it enacted the 1996 law, even after adjusting for the improved economy.

In a report last year, GAO reported, quote, "There's a growing gap between the number of children living in poverty, an important indicator of children's need for food assistance, and the number of children receiving food stamp assistance," unquote. We have conducted a similar analysis going from the peak in food stamp participation in 1994 and reached results very similar to those of GAO.

Overall the number of people living below the poverty line fell 9.4 percent, or 3.6 million people, between 1994 and 1998, while the number of people receiving food stamps in an average month fell nearly 30 percent, or over 8 million people, during that same period.

This difference is far greater than the 1.5 million illegal immigrants and childless adults whom CBO estimated became ineligible for food stamps at the end of 1997 as a result of the 1996 law.

We found a similar decline in the percentage of poor children receiving food stamp assistance. Using census data, the number of children receiving food stamps as a percentage of those children living in poverty was 88 percent in 1994 and 1995. By 1998, it was down to just 72 percent, a significant drop. It's important to search for the causes of this unprecedented decline in food stamp participation.

Overall, it shows that nonimmigrant families, families not affected by the changes in immigrant eligibility account for almost three-fifths of the decline in food stamp participation from 1994 to 1998.

It appears that families that are either being diverted from cash assistance or leaving welfare are losing food stamps at the same time or shortly thereafter. For these families, the transition from

welfare to work is going to be more difficult, and that could undermine the success of welfare reform efforts around the country.

We're also troubled to see that a three-quarters decline in the number of low-income U.S. citizen children participating in food stamp programs that live in immigrant households. These children because they're U.S. citizens did not lose eligibility, although household members may have as a result of the 1996 legislation. And, yet, the number of them participating has dropped by three-quarters. We believe this requires further investigation.

Finally, it appears that some efforts that States are engaging in with the very best of intentions to reduce their error rates may inadvertently be making food stamps less accessible to the working poor.

Some States now require these families to take time off from work and reapply for food stamps and provide extensive documentation of their eligibility once every 3 months. Naturally, missing this amount of time for work is burdensome and costly to the working families and can undermine their relationships with their employers and jeopardize their opportunities to advance in the workplace. Families subject to these short certification periods may soon decide that the cost of participating in food stamps is too great.

As a final one of our chart shows, States that have substantially increased the proportion of families, working families with kids that have to reapply every 3 months or less have had a 24 percent decline in participation among working families with kids compared to a national average of about 5 percent. We need to find ways to better serve these families.

In conclusion, the Food Stamp Program plays a vital role in providing a nutritional floor under the nation's poor. Former Senate Minority Leader Robert Dole once called the program the most important social program since Social Security to continue to fulfill its mission, we need to strengthen the program's integrity to improve its service to working poor families, to gain a deeper understanding of the causes of the larger than anticipated declines in food stamp participation, and to respond accordingly to these challenges.

Thank you very much again for the opportunity to testify today. I'd be pleased to answer any questions you might have.

[The prepared statement of David Super follows:]

PREPARED STATEMENT OF DAVID A. SUPER, GENERAL COUNSEL, CENTER ON BUDGET AND POLICY PRIORITIES

Mr. Chairman, Representative Clayton, members of the committee, thank you very much for inviting me to testify before you today on the important issues confronting the Food Stamp Program. I am David Super, General Counsel of the Center for Budget and Policy Priorities. The Center is a non-profit organization that conducts research and analysis on an array of policy issues at both the Federal and state levels. We receive no government funding.

As an organization concerned about low-income people who are struggling to feed their families, we feel strongly that no food stamps ought to be issued to ineligible persons.

We are equally concerned when food stamps that are issued correctly are misused through trafficking. Although trafficking in properly issued benefits does not constitute a monetary loss to the Federal Government, and eliminating all trafficking would not produce any budgetary savings, trafficking does undermine the public trust and should be vigorously pursued.

And just as we are concerned about improper issuances and improper use of benefits, we are also concerned that eligible families in need of food stamps have a fair opportunity to obtain those benefits. We applaud the Committee for its interest in all of these challenges facing the Food Stamp Program today.

With regards to trafficking, we were pleased to read in USDA's recent study that the overwhelming majority of food stamp benefits continue to be used for their intended purposes and that the incidence of food stamp trafficking appears to be declining. Any trafficking is too much, but it is heartening to see progress is being made. This may well be in part the result of the bipartisan anti-fraud provisions of the 1996 welfare law, the greater movement toward electronic benefit transfer (EBT), and FNS's greater efforts to partner with states and others to attack trafficking.

We hope that Congress and the Administration will work together to make further progress in this area, in particular by providing FNS with the resources it needs both for additional compliance and enforcement staff and for a research budget that could, among other things, help the agency understand more about how food stamp traffickers operate.

We also hope that Congress and the Administration will work together to ensure that food stamps are available to eligible low-income families that need them. In their May 1999 report entitled, "Welfare Reform Has Already Achieved Major Successes: A House Republican Assessment of the Effects of Welfare Reform," Speaker Hastert and Reps. Nancy Johnson, Bill Archer and Clay Shaw make the point that food stamp benefits are an important part of the Federal Government's "commitment to making work pay."¹ Food stamps can supplement the low wages that many families moving from welfare to work are earning.

Leaders of both political parties and officials of conservative and liberal think tanks alike have urged that if a family works full time throughout the year, the family should not have to live in poverty. This goal shaped the largely bipartisan expansions of the earned income tax credit (EITC) throughout the late 1980's and early 1990's. The EITC is now designed so that full-time year-round minimum-wage earnings plus the EITC and food stamps bring a family of four to the poverty line.

In the report on welfare reform they released last year, Speaker Hastert and Reps. Johnson, Archer and Shaw note that "caseload data from the food stamp program and the Medicaid program seem to indicate that many adults and children who meet the demographic, income, and resource standards for these benefits are not receiving them. * * * [T]here is concern among program administrators and other experts that there probably are many children eligible for Medicaid and food stamps who are not receiving them."²

The evidence suggests that the decline in food stamp participation is significantly larger than can be explained by the economy and the food stamp changes in the welfare law. The reduction in food stamp spending in recent years has been far greater than Congress sought or anticipated when it enacted the 1996 welfare law, even after adjusting for the improved economy.

In a report issued last year, the GAO reported: "there is a growing gap between the number of children living in poverty—an important indicator of children's need for food assistance—and the number of children receiving food stamp assistance."

We have conducted a similar analysis going back to the peak in food stamp participation in 1994 and reached results very similar to GAO's. Overall, the number of people living below the poverty line fell 9.4 percent, or 3.6 million people, between 1994 and 1998 while the number of people receiving food stamps in the average month fell nearly 30 percent, over eight million people, during the same period. The difference was far greater than the 1.5 million legal immigrants and childless adults whom CBO estimated became ineligible for food stamps by the end of 1997 as a result of the 1996 welfare law.

We also found a substantial decline in the percentage of poor children receiving food stamp assistance. Using Census data on the number of poor children and USDA data on food stamp participation, we found that in 1994 and 1995, there were 88 children receiving food stamps for every 100 children below the poverty line. By 1998, we estimate there were just 72 children receiving food stamps for every 100 poor children.

It is important to search for the causes of this unprecedented decline in program participation among eligible low-income households. Overall, the data show that non-immigrant families with children have accounted for almost three-fifths of the

¹ Representatives Nancy L. Johnson, Bill Archer, E. Clay Shaw, Jr., and J. Dennis Hastert, "Welfare Reform Has Already Achieved Major Successes: A House Republican Assessment of the Effects of Welfare Reform," May 27, 1999, p. 29.

²¹ *Op cit.*, p. 31.

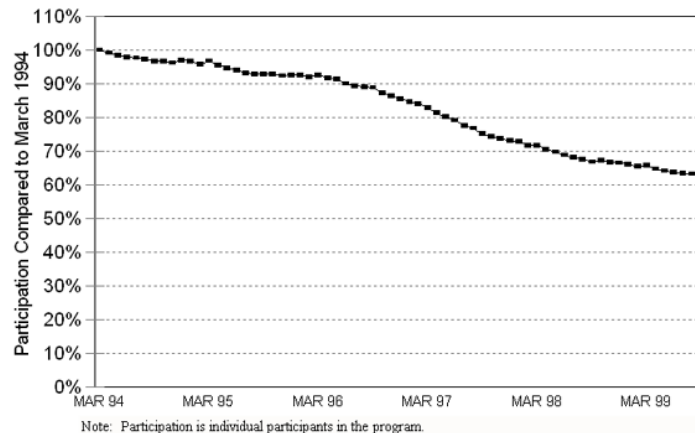
decline in food stamp participation from 1994 to 1998. As research by the Urban Institute and others has shown, a great many of the families that have left welfare for low-paying jobs remain eligible for food stamps but no longer receive benefits. It appears that low-income families that are being diverted from cash assistance programs are also failing to apply for food stamps, and that families leaving welfare are losing food stamps at the same time or shortly thereafter. Without food stamps, the transition from welfare to work for these families will be substantially more difficult, and the success of welfare reform efforts may be imperiled.

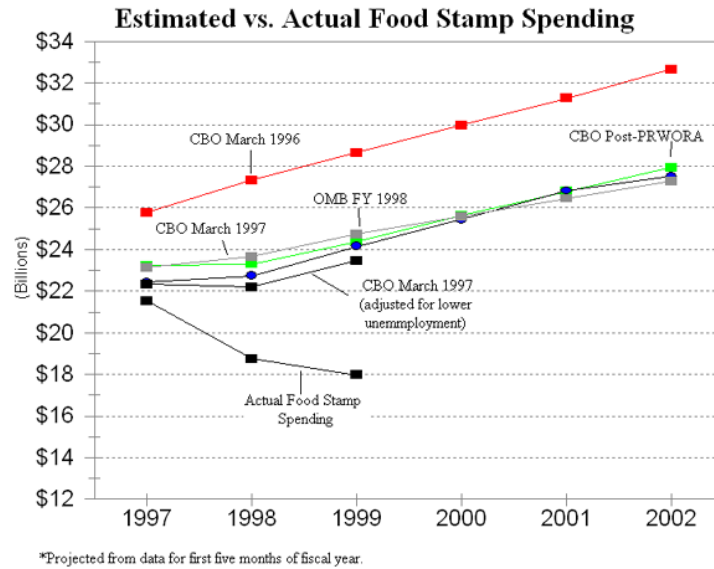
Also troubling is the three-quarters decline in the number of low-income U.S. citizen children receiving food stamps in households containing immigrant members. Citizen children remain eligible for food stamps, and many need this assistance to ensure that they go to school alert and ready to learn. We need to understand better why they are no longer receiving food stamps and work together to ensure they receive this assistance if they need it.

Finally, it appears that some state practices designed to reduce error rates may be inadvertently making food stamps much less accessible to the working poor. Some states now require these families to take time off from work once every 3 months to reapply for food stamps and to provide extensive documentation of their eligibility. Naturally, missing this amount of time from work is burdensome to these working families and can undermine their relationships with their employers. Families subject to these short certification periods may soon decide that the cost of continuing to receive food stamps is too great. In states that have required a substantially higher proportion of working families with children to reapply every 3 months, the decline in participation among these families has been 24 percent, compared with a national average decline among these families of just 5 percent. We need to find better ways to serve these families.

In conclusion, the food stamp program plays a vital role in providing a nutritional floor under the nation's poor. Former Senate Majority Leader Bob Dole once called it the most important social program since Social Security. To continue to fulfill its mission, we need to strengthen the program's integrity, to improve its service to working poor families, to gain a deeper understanding of the causes of the larger-than-anticipated declines in food stamp participation, and to respond appropriately to these challenges. Thank you very much again for the opportunity to testify before you today. I would be pleased to answer any questions that I can.

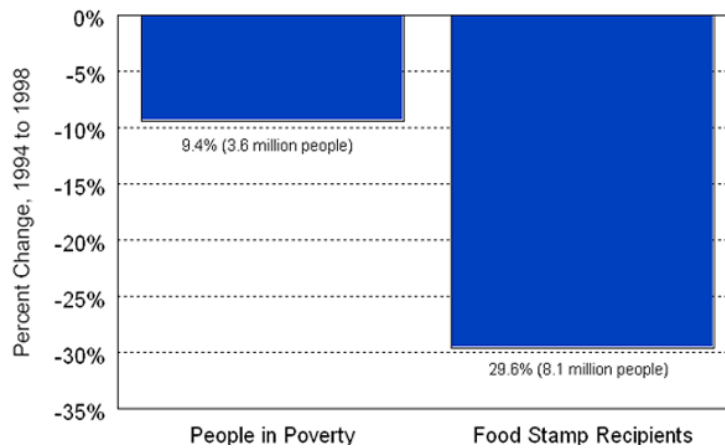
Food Stamp Participation Decline





Poverty and Food Stamp Participation

Calendar Years 1994 to 1998

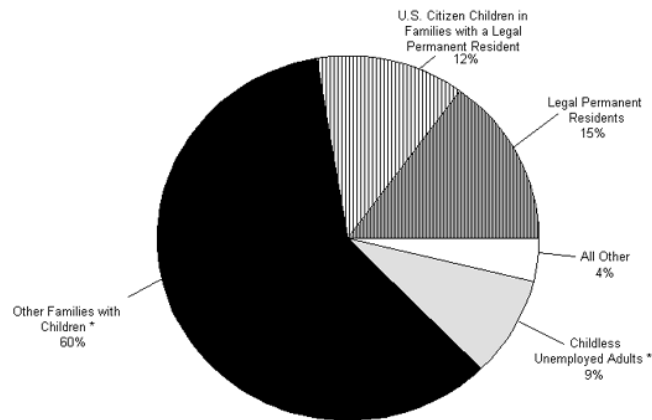


DECLINE IN PROPORTION OF POOR CHILDREN RECEIVING ASSISTANCE 1994–1998

[Percentage]

	Food stamps	Cash assistance
Percentage of Poor Children Receiving Benefits, 1994	88	58
Percentage of Poor Children Receiving Benefits, 1998	72	41

Food Stamp Participation Decline FY 1994 to FY 1998

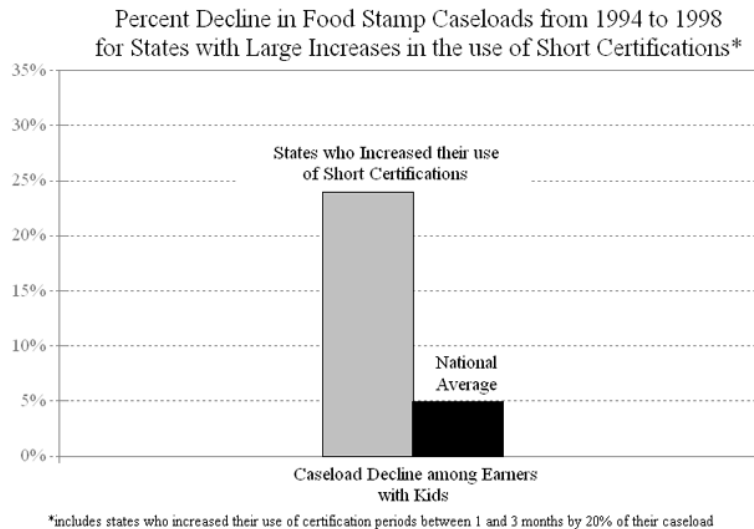


* These categories exclude households with legal permanent residents.

Food Stamp Participation Changes from 1994 to 1998 (in thousands)

	Participants: 1994	Participants: 1998	Participation Change	Percent Change
Legal Permanent Residents	1,453	243	-1,210	-83%
U.S. Citizen Children in Families with a Legal Permanent Resident	1,357	354	-1,003	-74%
Other Families with Children *	20,275	15,468	-4,807	-24%
Childless Unemployed Adults *	1,253	530	-723	-58%
All Other	3,671	3,374	-297	-8%
Total	28,009	19,969	-8,040	-29%

* These categories exclude households with legal permanent residents.



Mr. NUSSLE. Thank you both.

Ms. Clayton, do you have questions for this panel?

Mrs. CLAYTON. Well, I want to thank you first for allowing both of these witnesses to testify. I think they bring a different dimension to our whole issue of making sure that we use the resources well.

The reason I wanted, Mr. Chairman, to have their statement on the record is that as we try, indeed, to make sure that the monies that are allocated, approved, and authorized by Congress be spent correctly and not in trafficking or misused, mismanaged, we also want to make sure that we have a compelling, urgent need to make sure we reach out and serve the people the bill was originally designed.

I think in both of their testimony, they will show that, indeed, the program has been the cornerstone of responding to the nutritional needs of America, but there has been a drastic decline in some ways which is unexplainable, though there have been efforts.

In Ms. Zedlewski's testimony, she gave five different reasons of what she thought what was happening in those areas. But, again, in the spirit of the Chairman's request to the last panel, if we want this program to be responsive to those citizens who are eligible and for which it was originally authorized, what would you recommend to us that we should do?

And I'll get, Mr. Super, in a few minutes to you, but I would be interested in your particular analysis, where you say the working families indeed were having far more difficulty in getting resources.

Ms. ZEDLEWSKI. Right. This has been true throughout, as long as we know, in the program that eligible families who work are much less likely to participate in the Food Stamp Program than others.

And there have been a lot of anecdotal stories about why that is true. Food stamp offices are typically open between 9 and 5, when people are working. The process takes place in a welfare office. I would contrast this with the Women, Infants and Children [WIC]

nutrition program, where participation has actually been increasing. Families can go into a community health office and get WIC benefits. The process is easier.

When you talk to States about trying to increase participation among working poor families, they turn to the cost of doing this. It costs extra money to have caseworkers available outside of regular hours, to outstation workers, to issue contracts to community service agencies to help families stay in the system.

I think that States need to be encouraged to do this, and need to be encouraged to take advantage of the Federal monies that are put out there for outreach. There is a 50 percent Federal match. But, as I said, only nine States right now are really engaged in these kinds of new outreach services.

It's a tough issue. It's a tough administrative problem. And the States, as you know, are also dealing with some very new procedures around their TANF programs. But I think this has to be part of the package of services that's offered to working poor families, as an important supplement to their incomes. And it needs to be made easier for families who are qualified to get the benefits. It's going to cost a little more administrative money.

Mrs. CLAYTON. Did I understand you to say that there's a match to be offered from the Federal Government to States if States wanted to take this initiative?

Ms. ZEDLEWSKI. That's right. States need to submit a special plan on new outreach efforts. And there's a 50/50 match with Federal/State moneys sharing the extra administrative cost equally.

Mrs. CLAYTON. Mr. Super? You gave some startling traffick scenarios, where, actually, the poorest of the poor were receiving less and children were receiving less. Can you give us any reason why you think that is happening? Children of immigrant families, you said, the poorest of the poor and children in general are receiving less in 1996 than they are now.

Mr. SUPER. Yes.

Mrs. CLAYTON. I am sorry. They're receiving less now than they were in 1996.

Mr. SUPER. Yes. I think that there are a number of factors that are probably fitting into this. Certainly with regard to those immigrant children, I think that there has been a lot of misunderstanding about the eligibility rules that were put in in 1996.

I think that there may be a perception the families have where there is an immigrant present, that they may be undermining their immigration status, even though they're legally here if they get assistance for the children and the family. There may be a number of other concerns along those lines with regards to them.

With regards to the group that constitutes the great bulk of the participation decline, the families with kids where there are no immigrants present, I think that's a combination of people not understanding that they are eligible, that some of the changes that have been made on the cash assistance side, which were designed to get people to work, were never intended to take food stamps away from people who are, in fact, working but still making very low wages.

I think it's also that there are people who are leaving cash assistance programs who are not understanding that they can retain their food stamps and, indeed, their Medicaid and child care bene-

fits when they leave if they've still got a very low income. And I think it is some of the practices that have been pursued to reduce the error rates, such as these very short certification periods, such as asking people to bring in extensive documentation from their employers, where people may not want to let their employer know that they're receiving food stamps and those sorts of things that are now causing problems.

Mrs. CLAYTON. Have you done any documentation to make a comparison between the utilization of Medicaid by persons leaving welfare and persons leaving welfare or using food stamps? Are people accessing the health care services for their children when they begin work but are no longer eligible for cash assistance more than they are doing for food stamps or less or about the same?

Mr. SUPER. It's very difficult to compare. There are a number of State studies of people leaving cash assistance that have been done. Some of them are pretty good. Some of them the data is not so good, and they show differing rates.

The best study or the most comprehensive one that I am aware of that might answer that question was actually done by The Urban Institute. So if I could?

Mrs. CLAYTON. Yes. Ms. Zedlewski.

Ms. ZEDLEWSKI. Thank you. Yes, we have looked at that issue. And there was a decline in Medicaid coverage as families left welfare. It wasn't as steep as the decline in food stamp benefits.

More recently, the Federal Government in partnerships with private foundations and community agencies has really been working hard at outreach to low-income families about continued eligibility for Medicaid and SCHIP for their children.

My understanding is the latest data show that this trend has turned around. So it gives me some encouragement and optimism that, in fact, we can decouple these work support programs, such as health insurance and food assistance from welfare. As families move into work, there are ways to keep them attached to these other important supports.

Mrs. CLAYTON. Mr. Chairman, I thank you for your forbearance, but let me just make this statement. I think one of the things we wanted to add into the record is that food stamps as well as Medicaid are there to assist people to make that transition from welfare to work because what you will find is that the cost of food and the cost of health for their families will drive them back to that.

So if we're not working in an effective way to make these programs effective for them, we are not even serving welfare reform well because we're making such an expensive issue to be able to have independents say, "I can't afford to take my kid to the doctor. I can't afford food. So why shouldn't I just stay on—because the job I have, it doesn't provide for all of those goods."

So I think it's a compelling case for us to make sure that there's outreach and the people who are eligible for that and who are working indeed are getting those resources. So I think that's a mismanagement of funds when we don't do this.

Mr. NUSSLE. Clearly. And that's why I knew that when we set up this hearing today that having you on the panel with me would provide that focus and that interest. We are talking about people here.

I know you were in the audience when we had the green eye-shades on. And we do that very often. We're very good at it. When we're in Congress, we talk about the bottom line a lot, what is the budget, what is this, what is that.

And what we're talking about here is people. I mean, are the kids getting the necessary nutrition that they need? Are the parents able to provide that assistance? Are they able to provide and make the transition from welfare to work? Because while we are certainly hopeful that we have a program in place that can provide the assistance to kids and to families when they need it, we also hope they get off it, not just for the sake of getting off it but because we understand that that independence that a family has of being able to find a job, of being able to provide for their family, being able to pass on those kinds of self-reliance attitudes to their children is a pretty important value I think that is shared by all of us that helped to write the welfare law.

The question I have—and I don't mean to zero in quite so focused on one thing, but today's hearing is about trafficking, waste, fraud, and abuse. And so please for a moment just provide it as a given that it is our hope that every single person who is eligible is able to reach the benefits that we are providing. Otherwise why are we providing them? Of course, we want them to get to them.

The question I have is: Do you—and I heard a little bit of it today, and I am just interested in any expansion you'd provide on this. Do you perceive that if we begin fighting waste and fraud and abuse of this system and trafficking of food stamps, in particular, that there will be those who decide, for one reason or another, to just say, "Hey, get me out of this program. I am not going to do it" other than the ones who are doing it already illegally?

I mean, I have a little bit of sympathy. I have sympathy for the kids that they're victimizing. I don't have a lot of sympathy for the adults that are going out and trafficking. I have sympathy for their kids. And so I am not talking about participation rates among those who are thrown out of the system because they violated it, appropriately thrown out because they violated it.

What I am talking about is what you're hinting at, I think. And that is: Do participation rates come down because we start getting tougher because the Department gets tougher on trafficking? Is that what you're telling us today? Either one can—

Ms. ZEDLEWSKI. I think this is a really complex topic, obviously. As it was said earlier today—and I truly believe this—as you reduce trafficking, you can increase the American confidence in this program. You can increase its acceptance as a work support for low-income families as you reduce the negativity that seems to surround the program.

However, when we're talking about implementing procedures that investigate a lot of innocent clients in the Food Stamp Program, that, in fact, can have the opposite effects. I think there's a delicate balance between how zealous you get in terms of looking at trafficking when you're going after the clients who are in the system and not discouraging participation among eligible families.

I think the bigger issue perhaps in terms of program participation is something that David alluded to earlier. One of the reasons why working families are thought to participate at much lower

rates is that when you work, your income fluctuates over time. Your earnings can fluctuate from day to day, from week to week.

And States have had to be very careful to get frequent reports from recipients who have earnings, sometimes requiring certified statements from their employer and having them come in every 3 months face to face to make sure that they're still eligible.

So when we're talking about keeping the error rate down, sometimes we can implement systems that make it much more difficult for working poor families to maintain these benefits. Perhaps there can be a balance between that and making the offices more accessible, like expanding the time that they're open, increasing the number of places you can go to update certification, allowing clients to update information via the phone and so on.

Maybe we can keep it all in balance. But, as I said, I think reducing the trafficking and any illegal activities surrounding the program could, in fact, increase the public's confidence in this program and would not deter participation. It's the negativity that you want to reduce in the program.

Mr. NUSSLE. Do you have any—and, again, part of what I see here—and we just heard a number today that it's potentially 3.5 percent or somewhere in the neighborhood of \$660 million a year. You know, I'd love to take that \$660 million and make sure that all the kids you're talking about are getting a nutritious set of meals during the day.

And so immediately what we think of sometimes—and that's why I am asking the question—is let's just crack down on this side, take the 660 million, put it over on this side, and make sure more kids get food.

And what you're telling me and what I am looking for is: Do you have any evidence to suggest that on the trafficking side, not so much the eligibility side because certainly there are people—and we're not talking about eligibility fraud because there are people who go out and hide income and do that. We're not talking about that because that does happen. That's kind of a separate subject to some extent. I am talking about somebody who is already eligible but is doing something wrong or a store that is either allowing it to happen or perpetrating it on their own.

At that level of trafficking, at that criminal activity level, do you anticipate that if, in fact, the Department cracks down, as they are telling us today that they're going to—they're working on a strategic plan to do that—and if we continue to persuade our colleagues to work at efforts to crack down, do you see that or do you have evidence to suggest that that will further have a chilling effect on the participation rates in food stamps overall?

Do you have evidence to that effect or is that just a general concern you have? I share your concern is the reason I ask it, but is it evidentiary or is it just supposition to some extent?

Ms. ZEDLEWSKI. Well, the evidence that we have is through a lot of focus groups with low-income families who are not participating in the program and talking to them across the country about why it is they don't participate in the country.

Mr. NUSSLE. OK.

Ms. ZEDLEWSKI. So I am associating those kinds of comments—

Mr. NUSSLE. Sure.

Ms. ZEDLEWSKI [continuing]. With what might happen if there were further crackdowns.

Mr. NUSSLE. Do you see a difference between EBT situations versus paper transaction coupon situations?

Ms. ZEDLEWSKI. Well, I think EBT, in fact, should have had a positive effect on participation. It was hypothesized that it would. In other words, families would be going into a grocery store with a plastic card, instead of obvious food stamps.

My understanding is that there isn't any real evidence that EBT has increased program participation, but EBT cards I think in general are good for clients, are good for the program. It's much more a modern way of issuing these kinds of benefits.

Mr. NUSSLE. Do you find it's a less onerous way of gathering information, too? For instance, if we started to relax some of the informational barriers that appear to be there the Department is suggesting are there between the EBT and some mandate by Congress that they can't use that for research, if we would relax that, for some reason, would that in your opinion be a less onerous way to collect that data than individual interviews and paperwork transactions?

Ms. ZEDLEWSKI. I think there's a lot of important information that you could gain from analysis of the EBT data in terms of the kinds of nutrition families are getting, as well as some of the other things that were mentioned earlier today.

Mr. NUSSLE. OK. Mr. Super, do you have anything you would like to add to this conversation? I don't mean to exclude you from this.

Mr. SUPER. Mr. Chairman, I think I would agree with everything that Ms. Zedlewski said about this. I think a sound, a sensible anti-fraud or anti-trafficking effort should not have an adverse effect on participation.

And just to give you an example of what I mean by that, a story that was told to me by a State anti-fraud investigator, one of the things that they looked for in finding suspicious evidence of possible trafficking is someone who has many, many transactions in the same day. That's not seen as normal activity, and that raises red flags.

They called someone in. And it turned out it was someone, a senior citizen, who was utterly incapable of understanding the balance information that EBT gave them. So they got all their groceries up to the front. And they'd run each one of them through until they ran out of funds. Once they found that out, they, of course, didn't proceed further.

As long as you have people using common sense and distinguishing between that sort of a situation and the situation where there is actual abuse going on, then I don't see a problem.

Indeed, I think, for just the reason Ms. Zedlewski said, it would be helpful if we could give the public confidence that when they see food stamps being used, that they know that they are being used appropriately.

Mr. NUSSLE. Actually, your example sounds like maybe the poster child for EBT and the use of that information because that probably could not have been discovered as fast if it was done with a coupon transfer.

Mr. SUPER. Yes. I mean, the potential for using EBT information to zero in on the problematic retailers and get them out of the program is fabulous and used sensibly, as in the example I gave, where you don't bother with people who just can't quite handle the technology but you use that—and probably the next person who had that same flag they called in may well have been a trafficker and they got rid of them—that I think is a very exciting possibility.

Mr. NUSSLE. Do you have anything else you would like to add, Ms. Clayton, before we wrap up the hearing?

Mrs. CLAYTON. I would just like to ask the issue about reports and doing research and analysis that the Secretary said she is prohibited from. And she read from the 1999 bill.

Do either of you have comments about that or is there a way we can get around that, why that is—if there is such valuable information to come from analyzing use of the electronic card, it seems to me that prohibition is denying us some critical information, a tool, not only for getting at the trafficking but also for utilization, other reasons.

Mr. SUPER. Yes. Congresswoman Clayton, if I may borrow the Chairman's analogy of a corporation that is having financial difficulties, when the appropriations language was put in prohibiting FNS from spending its money on research, in some sense, we took away their research and development arm. And if a corporation is having trouble, that's the very time when you want them doing research.

Now, they're allowed to operationalize things that they already know how to do. And that ALERT system is one example. But in times past, FNS' Office of Analysis and Evaluation was ahead of the game. They understood problems before other people did. They were years ahead of the program in finding these problems and identifying solutions and helping the operational people go after them before they got out of hand.

And for the past several years, the agriculture appropriations law has not allowed them to do that sort of work. And I think the more years that goes on, the farther behind we become.

Mr. NUSSLE. Yes. It's interesting. I was just checking with the staff about how that little rider got in there. I found out. It wasn't me, but I probably supported it. You may have even supported it, too, but it was in an effort to stop some—it sounded like maybe some political activity that was going on down at the Department or some focus groups. And so you put a provision in there. And now the Department is not doing any research. So we've got to figure out a way to put the governor on a little bit but loosen it a little bit.

So we will work on that, but suffice it to say I appreciate the testimony that this panel has given us. It's been very enlightening. We appreciate your interest and work in this area and concern. And I appreciate the participation of members.

We will call this hearing to a close. And hopefully we will have another opportunity to discuss this in a little bit more detail in a little while. There's some discussion about maybe one more hearing on this subject. And so we will look forward to that opportunity in the future.

The Task Force will stand adjourned. Thank you.

[Whereupon, the foregoing matter was concluded at 4:25 p.m.]

Federal Disability Benefits Still Being Paid to Drug Addicts and Alcoholics

TUESDAY, SEPTEMBER 12, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
TASK FORCE ON WELFARE,
Washington, DC.

The Task Force met, pursuant to call, at 1:20 p.m., in room 210, Cannon House Office Building, Hon. Jim Nussle (chairman of the Task Force) presiding.

Chairman NUSSLE. Good morning—or good afternoon. It is still good morning for some of us. I apologize for running a little bit behind. We have had some weather problems in the country, as some of you know, and I spent the night at O'Hare last night and so my clock has been turned back just slightly. So I apologize for the delay.

Mrs. Clayton will be here in a moment, and we will also be recognizing her. I appreciate Mr. Collins of Georgia being here as well today.

I would like to begin this today by talking a little bit about the fact that in 1996 the Congress passed and the President signed into law comprehensive reform of our Nation's welfare system. And while the intentions were good when it was created in 1965 after 30 years of the old welfare system, we had basically more poverty, more despair and hopelessness within our country from those who seem to be locked within that system. The failed, old system placed a real disincentive on working and keeping the family together.

In 1996, reforms transformed welfare from a failed, very impersonal Washington-dictated system to a much more personalized, more effective and hopefully more compassionate system based on individual States and their communities. We have witnessed the most dramatic decline in welfare caseloads in the history of the Federal welfare programs, cutting the number of recipients in half.

Since 1996, more than 6 million Americans are off welfare and enjoying the rewards of hard work and a well-deserved paycheck. In fact, the number of Americans on welfare is now at the lowest levels since 1965. This remarkable turnaround has created some unique problems of its own, but they are problems we are all happier in addressing, I believe, than the original problems themselves. For example, the city of Milwaukee, Wisconsin, has had to revamp its public bus routes, as we understand—and schedules—because so many more people are going to work than there were 4 years ago.

With all of that being said, however, we are here today to look at a concern about a provision that I believe was really a component of welfare reform, but which was approved and signed into law separately from the actual 1996 welfare reform bill and has not been adequately enforced or certainly not in a timely manner and it is costing American taxpayers millions of dollars each year.

Public Law 104-121 eliminated drug addiction and alcoholism as conditions for which individuals could legally qualify for SSI, Supplemental Security Income, and Social Security disability insurance benefits. Substance abusers who have other medical conditions that would qualify them for benefits remain eligible, but eligibility was terminated for those who would not be disabled if they stopped abusing drugs and alcohol.

The history of whether substance abuse in and of itself should qualify as a disabling condition goes back to the creation of the SSI program. The compromise struck in the 1972 legislation requires persons whose sole qualification for SSI was addiction to have benefits paid through representative payees. But there was no restriction on who that payee might be and it was often a relative or friend of the recipient. There were even horror stories about benefits being paid directly to—in some instances, even bars and taverns.

Congress attempted—and Congress', I should say, first attempt to make some changes—came in 1994. Legislation was enacted to limit the period of time persons could remain eligible for SSI and DI benefits based solely on substance abuse. The 1994 bill also finally strengthened the representative payee requirements and required recipients to participate in drug or alcohol abuse treatment, but those changes did not go far enough.

There were many in Congress who always believed that it was inappropriate to be providing SSI or DI benefits to a person based solely on their drug or alcohol addiction. Obviously it wasn't fair to the taxpayer, but even more importantly it was not fair to those beneficiaries.

There is no shortage of examples of drug addicts and alcoholics receiving their checks and using those funds specifically to satisfy and further their addiction. In many cases, it was as if the Federal Government was contributing to their addiction and in some cases it has ended in tragedy and death.

I remember reading an article that quoted an assistant director of the drug treatment facility who saw a number of SSI and DI recipients repeatedly in his treatment facility with little or no hope of conquering their addictions. According to that person on the front lines of the drug battle, he never saw a disability recipient successfully complete the drug treatment program and he placed some of the blame on the monthly check that the drug addict basically could count on receiving from the Federal Government to help fund their addiction.

In 1996, changes ended this vicious cycle and it directed the Social Security Administration to terminate SSI and DI benefits for any beneficiary for whom drug addiction or alcoholism was material to the funding of their disability. As of May, 1997, SSA had notified more than 200,000 individuals that their benefits would terminate under the new welfare law.

In May of this year, the SSA Inspector General issued an audit detailing the implementation of this provision of the 1996 law. The report estimated that thousands of SSI and DI beneficiaries whose sole disabling condition was drug addiction and alcoholism remained on the benefit rolls despite having their eligibility terminated by the new welfare law. Based on a sample of cases reviewed, the IG audit estimated that between 1997 and the completion of the audit, more than 3,000 individuals had received more than \$40 million in SSI or DI benefits to which they were not entitled. And under current procedures, SSI will not seek to recover any of those overpaid benefits.

I believe treatment must be available to the recovering alcoholic and drug addict. If they need and want help, that assistance should be available to them. But a monthly cash payment from the Federal Government is not the way to help an alcoholic or drug addict battle his or her disease.

This is not just me saying this. These are the people that are on the front lines who make that point. This point is made by the fact that after 4 years of payments, these same individuals still have the same problem.

Each dollar used inappropriately in payments to these people could have been better used in their treatment or to provide assistance to other people with disabilities.

We are here today to review the audit report, to learn why these thousands of drug addicts and alcoholics continued to receive disability benefits for more than 4 years after the law was changed terminating their benefits. We also will seek to determine what steps SSA is taking to address the findings of the audit report and to assure that provisions of the 1996 welfare law are fully implemented.

Joining us today at the hearing is James Huse, Jr.—, am I pronouncing that right?

Mr. HUSE. Yes, sir.

Chairman NUSSLE [continuing]. Who is the Inspector General of the Social Security Administration; Steven Schaeffer, who is the Assistant Inspector General for audit of the Social Security Administration; Kenneth—and you're going to have to help me with this——

Mr. NIBALI. Nibali.

Chairman NUSSLE [continuing]. Kenneth Nibali, Associate Commissioner for Disability for the Social Security Administration. I appreciate all three of you coming here today.

Before we begin with the testimony, Mr. Collins, do you have any opening statement that you would like to make at this time?

Mr. COLLINS. I don't believe so, sir.

Chairman NUSSLE. Thank you.

Without objection, all Members will be given 5 legislative days to revise and extend their remarks and submit extraneous written material. Is there any objection to that?

Also, the witnesses themselves, I would ask you to recognize that your written statement will be placed into the record, and you may summarize if you care to and pull out the points that you believe are most important.

Hearing no objections to that, I will call on Mr. Huse, Jr., the Inspector General, and ask you for your testimony. Welcome and thank you.

**STATEMENT OF JAMES G. HUSE, JR., INSPECTOR GENERAL,
SOCIAL SECURITY ADMINISTRATION**

Mr. HUSE. Thank you, Mr. Chairman, and Mr. Collins.

Mr. COLLINS. Nice to see you again, sir.

Mr. HUSE. Good to see you again, sir.

Thank you for this opportunity for us to discuss the Federal disability benefits being paid to drug addicts and alcoholics.

As you are aware, our office is responsible for preventing fraud, waste and abuse in the Social Security Administration's programs and operations. An important part of our efforts involves performing independent and objective audits aimed at effecting positive change and improvement. In May, 2000, we released our audit report entitled implementation of drug addiction and alcoholism provisions of Public Law 104-121. Our objective in this audit was to determine whether SSA identified and terminated benefits to all beneficiaries for whom drug addiction or alcoholism was a contributing factor material to the finding of disability.

We conducted this audit to ascertain the agency's compliance with the Contract With America Advancement Act of 1996 which prohibits the payment of disability insurance benefits and Supplemental Security Income benefits if drug addiction or alcoholism is the primary reason the individual is disabled. To establish materiality, SSA needed to evaluate medical evidence to determine if the individual would not be disabled if he or she stopped using drugs or alcohol.

After this evaluation, the law requires SSA to terminate payments to individuals whose disabilities were based on drug addiction and alcoholism alone. In addition, if individuals appealed their terminations timely, this law required SSA to conduct medical redeterminations by January 1, 1997.

Our audit concluded that SSA did not identify and terminate benefits to all beneficiaries for whom drug addiction and alcoholism was a contributing factor, material to the finding of disability.

Assistant Inspector General for Audit, Steven Schaeffer, will provide you with a more comprehensive explanation of our findings. At this point, I would like to allow Mr. Schaeffer to present his statement.

[The prepared statement of James G. Huse, Jr., follows:]

**PREPARED STATEMENT OF JAMES G. HUSE, JR., INSPECTOR GENERAL, SOCIAL
SECURITY ADMINISTRATION**

Chairman Kasich and members of the Task Force, thank you for inviting me to discuss the issue of Federal Disability Benefit payments for drug addicts and alcoholics. As you are well aware, our office is responsible for preventing and detecting fraud, waste, and abuse in the Social Security Administration's programs and operations. An important part of our efforts involves performing independent and objective audits aimed at affecting positive change and improvement.

In May 2000, we released our audit report entitled "Implementation of Drug Addiction and Alcoholism Provisions of Public Law 104-121". Public Law 104-121, also known as the Contract with America Advancement Act of 1996, prohibits the payment of Social Security Disability Insurance benefits and Supplemental Security Income benefits if drug addiction or alcoholism is a contributing factor material to finding a claimant disabled. The objective of our audit was to determine whether

SSA identified and terminated benefits to all beneficiaries for whom these prohibitions applied.

Our audit concluded that SSA did not identify and terminate benefits to all beneficiaries for whom drug addiction and alcoholism was a contributing factor material to the finding of disability. Assistant Inspector General for Audit Steven Schaeffer will provide you with a more comprehensive explanation of our findings. At this point I would like to allow Mr. Schaeffer to present his statement. I would also like to thank the Subcommittee for its interest in our work and efforts to prevent and detect fraud, waste and abuse in SSA's programs and operations.

Chairman NUSSLE. Mr. Schaeffer.

STATEMENT OF STEVEN L. SCHAEFFER, ASSISTANT INSPECTOR GENERAL FOR AUDIT, SOCIAL SECURITY ADMINISTRATION

Mr. SCHAEFFER. Mr. Chairman, Mr. Collins, it is a pleasure to be here to discuss this important topic with you.

By May 30, 1997, SSA had notified approximately 209,000 individuals that their benefits would be terminated due to drug addiction or alcoholism. Of these 209,000 identified individuals, 67 percent actually had their benefits terminated by SSA, 31 percent appealed the DAA termination and continued to receive benefits based on a disability other than drug and alcohol abuse, and 2 percent continued in benefit status because they were incorrectly identified as DAA cases.

In September 1998, we began an audit to determine if the Social Security Administration had identified and terminated benefit payments to all individuals where DAA was a contributing material factor to that individual's disability. We learned that SSA only used one criteria for identifying DAA cases for review. However, using an additional code, we focused on approximately 20,000 individuals whose cases we believed might be indicative of drug addiction or alcoholism. After reviewing a sample of these cases, we found that DAA was in fact the primary reason for disability in many cases.

In December, 1998, SSA disagreed and asserted that based upon data contained in their information systems, disability determinations for 16,677 of these individuals did not consider DAA. For the remaining 3,269 individuals, SSA informed us that it did not have sufficient information to determine whether or not DAA was the reason that they were determined to be disabled.

In March 1999, we expressed our concerns to SSA regarding its assertions and we expressed our intent to proceed with a review of a sample of the approximately 20,000 beneficiaries who appeared to be receiving benefits based on DAA even though the law prohibited such payments. Following our review, we concluded that SSA did not identify and terminate benefits to all individuals where DAA was material to their disability determination. We then estimated that approximately 3,200 individuals were paid around \$39 million in DI and SSI benefits.

In one example, an individual in our sample was selected for review because he was receiving benefits and had a diagnosis code for alcohol substance addiction. Our review of information provided by SSA indicated that DAA was in fact the contributing factor for the disability finding. Specifically, the case folder contained a document that stated, "Substance abuse is a substantial reason for the finding of disability and the conferring of benefits in this case." Ad-

ditionally, a report from SSA's Disability Review Section stated that DAA was a contributing factor and the claimant was determined to be an alcoholic.

For this particular case, there was no documentation to indicate that SSA reviewed this individual's medical condition after the passage of Public Law 104-121. Further, SSA's records showed that SSA did not review this case between SSA's DAA determination in 1993 and our audit work in 1998. SSA did not identify this case when the new law was passed in 1996 because the agency only looked at certain indicators and not the entire record. Therefore, benefits were not terminated and this individual received a total of \$11,736 in SSI payments between the effective date of Public Law 104-121, January 1997, and December, 1998.

Additionally, we found that cases were miscoded in SSA's information systems showing DAA, even though DAA was not material to the disability determination. Based on our review, we estimate that 14,420 SSA beneficiaries do not have the correct diagnosis codes, DAA indicators, or both, on their records to show that DAA was not material to their disability determination. Incorrect coding such as this could impact the agency's ability to identify cases affected by new legislation, as was the case with Public Law 104-121. Additionally, incorrect coding could also impact on SSA's ability to profile cases for continuing disability reviews which determine whether beneficiaries continue to be disabled.

We provided SSA with four recommendations to improve its implementation of the DAA provisions of Public Law 104-121 and to help reduce SSA's incidence of paying benefits to ineligible individuals. We specifically recommended that SSA review the 10,611 SSI cases that SSA asserted were either properly handled or miscoded and apply the provisions of Public Law 104-121 where appropriate.

Two, when conducting the next scheduled CDRs for the 6,066 DI cases in our extract, ensure that the benefits are terminated if DAA is material to the finding of disability.

Three, ensure that the 3,269 cases SSA agreed to review are completed, the coding corrected and the benefits terminated where appropriate.

Four, modify its systems so that the primary diagnosis codes for alcohol or drug addiction will no longer be accepted.

In response to our draft report, SSA agreed with our recommendations and stated that corrective actions were initiated and in some cases completed. Specifically, SSA stated that all the reviews specified in our first three recommendations were completed or initiated. Regarding our fourth recommendation, SSA stated that in August 1999 systems modifications were completed to eliminate erroneous entries in its systems. SSA stated that when a case is denied because DAA was the reason for the disability, the use of alcohol or drug addiction codes is appropriate.

I would like to thank the subcommittee for its interest in improving SSA's implementation of the DAA provisions. This issue represents a successful illustration of the role of the OIG at SSA and the importance of cooperation between the OIG and the agency, resulting with SSA immediately implementing some of the corrective actions. The agency's aggressive action limited further incorrect payments from being made.

Thank you for your time and interest in this subject. I would be glad to respond to any questions you may have.

Chairman NUSSLE. Thank you very much.

[The prepared statement of Steven L. Schaeffer follows:]

PREPARED STATEMENT OF STEVEN L. SCHAEFFER, ASSISTANT INSPECTOR GENERAL
FOR AUDIT, SOCIAL SECURITY ADMINISTRATION

It is a pleasure to be here to discuss this important topic with you. By May 30, 1997, SSA had notified 209,374 individuals that their benefits would be terminated due to drug addiction or alcoholism (DAA). Of these 209,374 identified individuals:

- 67 percent actually had their benefits terminated by SSA;
- 31 percent appealed the DAA termination and continued to receive benefits based on a disability other than DAA; and
- 2 percent continued in benefit status because they were incorrectly identified as DAA cases.

In September 1998, we began an audit to determine if the Social Security Administration (SSA) had identified and terminated benefit payments to all individuals where DAA was a contributing material factor to that individual's disability. We learned that SSA only used one criteria for identifying DAA cases for review. However, using an additional code, we focused on 19,946 individuals whose cases we believed might be indicative of drug addiction or alcoholism. After reviewing a sample of these claims, we found that DAA was in fact the primary reason disability in many cases. In December 1998, SSA disagreed and asserted that, based upon data contained in their information system, disability determinations for 16,677 of the individuals did not consider DAA. For the remaining 3,269 individuals, SSA informed us that it did not have sufficient information to determine whether or not DAA was the reason they were determined to be disabled.

In March 1999, we expressed our concerns to SSA regarding its assertions, and we expressed our intent to proceed with a review of a sample of the 19,946 beneficiaries who appeared to be receiving benefits based on DAA even though the law prohibited such payments. Following our review, we concluded that SSA did not identify and terminate benefits to all individuals where DAA was material to their disability determination. We then estimated that 3,190 individuals were incorrectly paid \$38.7 million in DI and SSI benefits.

In one example, an individual in our sample was selected for review because he was receiving benefits and had a diagnosis code for Alcohol Substance Addiction. Our review of information provided by SSA indicated that DAA was in fact, the contributing factor for the disability finding. Specifically, the case folder contained a document that stated, "Substance abuse is a substantial reason for the finding of disability and the conferring of benefits in this case." Additionally, a report from SSA's Disability Review Section stated that DAA was a contributing factor and the claimant was determined to be an alcoholic.

For this particular case, there was no documentation to indicate that SSA reviewed this individual's medical condition after the passage of Pub. L. No. 104-121. Further, SSA's records showed that SSA did not review this case between SSA's DAA determination in 1993 and our audit work in 1998. SSA did not identify this case when the new law was passed in 1996 because the Agency only looked at certain indicators and not the entire record. Therefore, benefits were not terminated and this individual received a total of \$11,736 in SSI payments between the effective date of Pub. L. No. 104-121 (January 1997) and December 1998 (the date the case was selected for review).

Additionally, we found that cases were miscoded in SSA's information systems showing DAA, even though DAA was not material to the disability determination. Based on our review, we estimate that 14,420 SSA beneficiaries do not have the correct diagnosis codes, DAA indicators, or both, on their records to show that DAA was material to their disability determination. Incorrect coding such as this could impact SSA's ability to identify cases affected by new legislation, as was the case with Pub. L. No. 104-121. Additionally, incorrect coding could also impact on SSA's ability to profile cases for continuing disability reviews (CDRs), which determine whether beneficiaries continue to be disabled.

We provided SSA with four recommendations to improve its implementation of the DAA provisions of P.L. 104-121, and to help reduce SSA's incidence of paying benefits to ineligible individuals. We recommended that SSA:

1. Review the 10,611 SSI cases that SSA asserted were either properly handled or miscoded and apply the provisions of Pub. L. No. 104-121 where appropriate.

2. When conducting the next scheduled CDRs for the 6,066 DI cases in our extract, ensure that benefits are terminated if DAA is material to the finding of disability.

3. Ensure that the 3,269 cases SSA agreed to review are completed, the coding corrected, and the benefits terminated where appropriate.

4. Modify its systems so that primary diagnosis codes for Alcohol or Drug Addiction will no longer be accepted.

In response to our draft report, SSA agreed with our recommendations and stated that corrective actions were initiated, and in some cases, completed. Specifically, SSA stated that all the reviews specified in our first three recommendations were completed or initiated. Regarding our fourth recommendation, SSA stated that in August 1999, systems modifications were completed to eliminate erroneous entries in its systems. SSA stated that when a case is denied because DAA was the reason for the disability, the use of alcohol or drug addiction codes is appropriate.

I would like to thank the Subcommittee for its interest in improving SSA's implementation of the DAA provisions. This issue represents a successful illustration of the role of the OIG at SSA, and the importance of cooperation between the OIG and the Agency, resulting with SSA immediately implementing some of the corrective actions. The Agency's aggressive action limited further incorrect payments from being made. Thank you for your time and interest in this subject matter and I would be glad to respond to any questions that you may have.

Chairman NUSSLE. Commissioner Nibali.

STATEMENT OF KENNETH NIBALI, ASSOCIATE COMMISSIONER FOR DISABILITY, SOCIAL SECURITY ADMINISTRATION

Mr. NIBALI. Thank you, Mr. Chairman, Mrs. Clayton is here now, and Mr. Collins. I am pleased to be here today to discuss issues relating to the Social Security Administration's implementation of the drug addiction and/or alcoholism provisions of Public Law 104-121. I am a careerist with SSA for 29 years and I am most currently the Associate Administrator for Disability.

While SSA worked aggressively to successfully implement this legislation, we are appreciative of the work by the Inspector General to identify potential concerns with our implementation and give us the opportunity to address those concerns.

I will briefly discuss the history of these conditions, the steps we took to implementation the legislation, the recent review and report by the IG and our actions and results. Again, I would like to thank the Inspector General for their help in implementing this legislation.

As you noted, Mr. Chairman, the original legislation passed by Congress in 1972 to create the SSI program required that disabled individuals whose DAA condition was material to their disability accept treatment, if available, and have their benefits paid to a representative payee.

The provisions did not apply to the Social Security disability insurance beneficiaries at that time. All SSI cases in which alcohol and/or drug addiction was material to the finding of disability were flagged with special DAA codes. Then the Social Security Independence and Program Improvement Act of 1994 placed additional requirements on individuals disabled due to DAA. Among other things, it extended the treatment participation requirements to the Social Security disability beneficiaries whose substance abuse was material to their disability, and therefore, special DAA codes were also applied to those cases to indicate DAA materiality.

Then, 2 years later, all benefits to individuals disabled solely due to DAA were eliminated in Public Law 104-121, which became law

on March 29, 1996. Among other things, for individuals whose DAA is a contributing factor material to the finding of disability, this law prevented DI and SSI eligibility effective with all claims adjudicated on or after March 29, 1996, and for individuals already receiving benefits based on DAA, SSA was required to notify beneficiaries of the new provisions and to complete new medical determinations by January 1, 1997. Additionally, beneficiaries who have a DAA condition and are incapable of managing their benefits are required to have a representative payee and to be referred to the appropriate State agency for treatment.

As has been noted, SSA took immediate steps to implement the legislation. We immediately instructed our disability adjudicators on how to process DAA cases under the new law, including the prohibition against allowing benefits in any case where DAA was material to the finding of disability. In June 1996, over 209,000 beneficiaries with special DAA codes were notified that their disability benefits would terminate effective January 1, 1997, due to the change in the law, and they could request a new medical determination.

We received about 141,000 responses to the over 209,000 initial notices. What that meant is for the 68,000 individuals who did not respond to the initial notice, eligibility for disability benefits was terminated effective January 1, 1997. Then SSA made medical decisions in about 131,000 cases.

After all appeals, benefits had been ceased to an additional 50,000 of those individuals and continued on the basis of another disability for 81,000. So the bottom line is that out of all 209,000 identified DAA beneficiaries, SSA has ceased benefits for about 123,000 beneficiaries and continued benefits based on another disability for about 86,000 beneficiaries.

As has been noted, in November, 1998 the Inspector General questioned whether some individuals were being paid benefits on the basis of DAA. OIG projected that almost 20,000 beneficiaries with a diagnosis of DAA or a DAA code were still receiving benefits and asked us to respond. After some discussions with OIG, SSA immediately started a review process through a combination of expedited, continuing disability reviews and other expedited folder reviews. And then, as has been said, on May 12, the Inspector General issued the report; and it identified the 20,000 cases that OIG had questioned and projected the numbers that Mr. Schaeffer just gave you, that 3,190 individuals may be being paid benefits that should have been terminated for DAA materiality.

OIG made a number of recommendations again, as Mr. Schaeffer pointed out, involving reviewing these cases and modifying our systems so that the diagnosis codes would no longer be accepted. We did agree with all those recommendations. We released cases for priority review, we accelerated continuing disability reviews for others. The results are these: That out of the almost 20,000 individuals identified by the Inspector General, we found a total of 339 to be still improperly receiving benefits because of DAA materiality, and those benefits should have been ceased and have been ceased now.

Additionally, in August 1999, we completed modifying our systems to preclude a DAA diagnosis in all cases except denials. The

Inspector General did SSA a good service by identifying this group of cases involving DAA that were not reviewed and suggested that we implement system audits to be assured that no DAA cases can be paid benefits. We took action as soon as the IG brought this to our attention. Again, the bottom line is that benefits have been terminated for 123,000 individuals out of those 209,000 originally coded as DAA.

Again, we would like to thank the Inspector General and his office for their help in the implementation of this.

That concludes my statement. I would be happy to answer any questions you might have.

[The prepared statement of Kenneth Nibali follows:]

PREPARED STATEMENT OF KENNETH NIBALI, ASSOCIATE COMMISSIONER FOR
DISABILITY, SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and members of the Task Force, I am pleased to be here today to discuss issues relating to the Social Security Administration's (SSA's) implementation of the drug addiction and/or alcoholism (DAA) provisions of Public Law 104-121. While SSA worked aggressively to successfully implement this legislation, we are appreciative of the work by the Inspector General to identify potential concerns with our implementation and give us the opportunity to address those concerns. I will discuss the history of these provisions, the steps we took to implement the legislation, the recent review and report by the Inspector General of implementation, and our actions and results pursuant to his recommendations. Again, I want to thank the Inspector General and his office for helping us implement this legislation.

BACKGROUND

The original legislation passed by Congress in 1972 to create the Supplemental Security Income (SSI) program required that disabled individuals whose DAA condition was material to their disability accept treatment if available and have their benefits paid to a representative payee. These two special requirements did not apply to SSI recipients who were determined to be disabled independently of their substance addictions (e.g., recipients who were disabled due to heart disease). Nor did they apply to Social Security Disability Insurance (SSDI) beneficiaries. All SSI cases in which alcohol and/or drug addiction was material to the finding of disability were flagged with special DAA codes.

P.L. 103-296

The Social Security Independence and Program Improvements Act of 1994, P.L. 103-296 enacted August 15, 1994, placed additional stringent requirements on individuals disabled due to DAA. Among other things, it extended the treatment participation requirements to SSDI beneficiaries whose substance abuse was material to their disability, required suspension of benefits for noncompliance with treatment, and limited payment of benefits to SSI recipients disabled due to DAA to 36 months. For DI beneficiaries disabled due to DAA benefits were limited to 36 months during which treatment was available. Our efforts to identify and code all DAA cases intensified. Special DAA codes were also applied to SSDI cases to indicate DAA materiality.

P.L. 104-121

All benefits for individuals disabled solely due to DAA were eliminated in Public Law 104-121, the Contract with America Advancement Act of 1996 which became law on March 29, 1996. Among other things, for individuals whose DAA is a contributing factor material to the finding of disability, this law prohibited DI and SSI eligibility effective with all claims filed or finally adjudicated on or after March 29, 1996. This prohibition was effective January 1, 1997, for individuals already receiving benefits based on DAA. SSA was required to notify current beneficiaries of the new provisions by June 27, 1996, and complete new medical determinations by January 1, 1997 for affected current beneficiaries who requested such a determination by July 29, 1996. Benefits (including Medicare and Medicaid) would stop unless the new determination showed that DAA was not material to the finding of disability (i.e., beneficiaries had to be disabled regardless of any DAA condition). Additionally, beneficiaries who have a DAA condition and are incapable of managing their bene-

fits are required to have a representative payee and to be referred to the appropriate State agency for treatment.

SSA took immediate steps to implement the legislation. We immediately instructed our disability adjudicators on how to process DAA cases under the new law, including the prohibition against allowing benefits in any case where DAA was material to the finding of disability. We were able within days of enactment to mail information across the country to several hundred organizations within the disability community—including legal aid and advocacy groups, payees, and county and state welfare agencies—informing them of the new law and what they could do to help their clients navigate the appeals process.

In June 1996, over 209,000 beneficiaries with special DAA codes were notified that their disability benefits would terminate effective January 1, 1997, due to the change in the law and that they could request a new medical determination.

- We received about 141,000 responses to the over 209,000 initial notices. Of these, about 131,000 cases required a medical decision. Of the remaining 10,000 cases: about half had benefits terminated for some non-DAA reason before a DAA medical decision was made; about 4,000 had been incorrectly coded as DAA on SSA's systems; and almost 900 were found eligible for other benefits based on age. For the 68,000 individuals who did not respond to the initial notice, eligibility to disability benefits was terminated effective January 1, 1997.

- SSA made medical decisions in about 131,000 cases. After appeals, benefits were continued based on another disability in about 81,000 cases and 50,000 were ceased.

- Out of all the 209,000 identified DAA beneficiaries, SSA ceased benefits for about 123,000 beneficiaries and continued benefits based on another disability (or based on age) for about 86,000 beneficiaries.

Benefit payments continued past January 1997 for beneficiaries whose timely filed appeals were still pending, but the vast majority of terminations were effectuated by January 1, 1997.

By the end of 1998, with the exception of a few appeals, the 209,000 identified DAA beneficiaries had either established that DAA was not material to their disability or had their benefits stopped.

OIG REVIEW AND REPORT AND SSA'S ACTIONS

In November 1998, SSA's Office of the Inspector General (OIG) questioned whether some individuals were being paid disability benefits on the basis of DAA. OIG found that almost 20,000 beneficiaries with a diagnosis of DAA or a DAA code were still receiving benefits and asked SSA to respond.

In response to the OIG inquiry, SSA immediately started a review process through a combination of expedited continuing disability reviews (CDRs) and other expedited folder reviews.

Subsequent to the OIG review, on May 12, 2000, the Inspector General issued the report *Implementation of Drug Addiction and Alcoholism Provisions of Public Law 104-121*. The report noted that SSA had not identified every beneficiary for whom DAA was a contributing factor material to the finding of disability, identified the almost 20,000 cases OIG had questioned, and projected that an estimated 3,190 individuals may be being paid benefits who should have been terminated for DAA materiality.

OIG made a number of recommendations to SSA involving reviewing cases and modifying our systems so that DAA diagnosis codes would not be accepted. We agreed with all of the recommendations. Because we had begun action as soon as OIG had questioned us about beneficiaries with DAA coding, I am happy to report that we had already corrected many of the problems by the time the report was issued, and since then have corrected the rest. We released cases for priority review and accelerated continuing disability reviews for others. The results are that a total of 339 of the almost 20,000 individuals identified by the Inspector General were found to be improperly receiving benefits because of DAA materiality and thus benefits have been ceased. Additionally, in August 1999, we completed modifying our systems to preclude a DAA diagnosis in all cases except denials.

The Inspector General did SSA a good service by identifying this group of cases involving DAA that were not reviewed and suggesting that we implement system edits to ensure that no DAA cases can be paid benefits. In retrospect we can see that we should have initially reviewed even those cases where our systems coding showed that a determination had already been made that DAA was not material. We took action as soon as the Inspector General brought this to our attention. The bottom line is that SSA implemented the DAA legislation timely and terminated

benefits to more than 123,000 out of the over 209,000 individuals originally coded as DAA.

CONCLUSION

We at SSA are proud of the actions we have taken to implement the DAA legislation. While regretting that we did not locate the final few hundred individuals until the Inspector General brought this to our attention, I cannot say enough about the dedicated employees in SSA and the State DDSs who handle our disability program.

Again, I would like to thank the Inspector General and his office for their help in our implementation of this legislation. By identifying cases that were incorrectly coded and needed review, they provided us a valuable service. That concludes my statement. I would be happy to answer any questions you might have.

Chairman NUSSLE. Thank you very much.

Before I do my questions, Mrs. Clayton has joined us. As I said at the last hearing, there is nobody in the Congress who on an individual basis is more aggressive in championing the individual rights of people who are disabled and in need of government assistance.

I appreciate your involvement in the hearing today. If you have any opening statement or anything that you would like, or if you have questions, I will refer to you at this time.

Mrs. CLAYTON. I will wait for my turn.

Chairman NUSSLE. Thank you.

Mr. Collins, do you have any questions for these witnesses?

Mr. COLLINS. Not at this time.

Chairman NUSSLE. First of all, let me just walk through a couple of things here real quick that I want to make sure I am following.

First of all, I appreciate the testimony of the witnesses. It does appear, as you referred to, Commissioner Nibali, that this is a very good example of where the OIG has provided oversight within an agency, made recommendations and corrective matters have been taken and have been followed through on. I congratulate you on that teamwork. Certainly whenever you talk about a law that was passed in 1996 and an end result that was taken all the way to the year 2000, you can imagine that there would probably be frustration; but I am sure you share in that frustration.

Part of my question is a general, possibly procedural question: Why would it take so long? Can you walk us through—can you walk the committee through why something like that—it would seem to me, if it is coded, if there is a coding issue where you have 209,000 people where if you pull up their files that say DA or A, or both, that it would be fairly easy to make a determination and make the kind of corrective matters back in 1996 or 1997.

Could you walk us through a little bit about why it took all the way to now to successfully complete this?

Mr. NIBALI. Yes, sir.

I think your summation is essentially the story. We did identify the individuals who we had coded on our system that we believed were subject to the legislative changes that Congress passed. We did it very quickly. The law gave us approximately 9 months to identify, to give legal notice to these individuals, and then to get a substantial number of them in and have their cases decided. And we did that.

The majority of these cases were in fact decided by January 1, 1997, as the legislation called for, the clear majority. Particularly in the disability arena, additional cases can take some amount of

time just because of the need to be fair and humane to people, get the information that is required, and this group in particular is a group that is not always easy to get the right information out to make all the decisions that should be made.

Chairman NUSSLE. Just so we are clear on the numbers, just so I am understanding what you are saying, that is that part of your testimony where you say 68,000 people did not respond and were immediately taken off at that point in time, and there were 131,000 that required an appeals process and that is what you are referring to?

Mr. NIBALI. Yes, and most of that 131,000 were adjudicated in that same time period. So in addition to the 68,000, another 50,000 were taken off the rolls, roughly, in that time period through that process, again a challenging piece of legislation to implement in a relatively short period of time. We were very interested some doing it correctly and within the time frames allocated, and we substantially did that.

Again, I would just point out that we did remove 123,000 individuals from the rolls. As you just pointed out, 68,000 of those were because, in fact, they did not appeal; that could be for a variety of reasons, but still that was the sum total.

What we are talking about in the substantial remaining period of that time is, yes, we did think we had it right. We looked at our codes, et cetera. This is where the partnership you just spoke of was a real benefit to us.

The Inspector General's staff looked at cases. We had some questions, as Mr. Schaeffer acknowledged, about some of their early reactions to the 20,000 some cases that they identified. There are other codes, diagnosis codes we call them, on our records. It indicates that a drug abuse and alcohol situation is present, but it did not indicate that that was the basis that we were paying that case on.

The Inspector General did some of the reviews they talked about. It raised some further issues. That is when we agreed with them that to be sure because we did not want to spend any money of the American taxpayers' dollars that are paid in, that we should not under the legislation, we thought we ought to go back and review those cases. That is what we did in that remaining period of time.

Chairman NUSSLE. Thank you.

Mrs. Clayton.

Mrs. CLAYTON. Commissioner, admittedly the 19,000 was raised, but also admittedly apparently by your figures out of that now, you know there are 339 that probably would be denied; is that what you are saying?

Mr. NIBALI. They have been denied.

Mrs. CLAYTON. They have been denied?

Mr. NIBALI. Yes, terminated.

Mrs. CLAYTON. Is that to suggest that of the other 19,946, that the others were just miscoded and therefore there isn't a reason to be concerned?

Mr. NIBALI. Well, there are a variety of things there. The bulk of those individuals, whether "miscoding" is exactly the term or not, we have straightened out our coding and we have determined that they properly belong on the rolls, again under the definition

of that 1996 law that DAA is not material to their disability, meaning they would be disabled under another disability.

Now, it is not all of those people, because a number of folks we in fact terminated because as we did those continuing disability reviews, we accelerated them at the suggestion of the Inspector General. We always find some number of people who in fact medically improve, we find some people who die, we find some people who are no longer eligible for other reasons, whether it is income and resources or issues like that.

There are other folks that were removed from the rolls, but the bulk of those people were determined to be disabled under another disability.

Mrs. CLAYTON. You feel the recommendations that the audit reports made, that you are able to meet those recommendations and there is a time frame for it?

Mr. NIBALI. Yes, I believe we certainly met the recommendations and I believe we did it in a very timely fashion, because once having been advised by the Inspector General that they had these concerns, as again Mr. Schaeffer noted, we had some back-and-forth about exactly which cases needed to be looked at and whether they needed to be looked at.

But in fact even in that interim period of time we started identifying cases and started putting things in process, so we could do, for example, continuing disability reviews on cases. So, therefore, I believe we acted in about as quick a manner as possible once those cases were identified and we agreed to relook at them.

Mrs. CLAYTON. So would you conclude, although there was a problem, there is no problem now?

Mr. NIBALI. Yes. What we conclude is that, as I was discussing with Mr. Nussle, the clear majority of these cases were properly identified and were from the original legislation back in 1996 and 1997—209,000 people looked at, 123,000 terminated. Based on the additional questions raised by the Inspector General, we have now looked at that remaining batch of cases, and we are very confident that we have a good resolution of all the cases for DAA.

Mrs. CLAYTON. In fact you have a system that at least can monitor with certainty that you are reviewing it, right?

Mr. NIBALI. Yes. In fact, our continuing disability review process is calling cases up pretty much on a routine basis every 3 years unless there is some reason to do it longer than that. That always gives us an opportunity to in fact identify if there are any other issues that need to be addressed. But in this way, working with the Inspector General, we actually accelerated some of that so we took care of those very quickly.

Mrs. CLAYTON. Part of the ability to do that is, obviously, having the resources that are needed to do that. I know it is not uncommon to have the Social Security Administration to take a long time to determine someone is disabled. I'm not sure why we should expect that it would be easier and quicker to go through the same process. It took a long time to determine the eligibility now to go through, if you are fair in that process to determine that they are not eligible at the time.

So we have some cases—I almost know every Congressperson, we are not unique to this, we have cases that are 2 and 3 years old,

and in fact they come to us as a last resort in that area. So I am not terribly disturbed if indeed there is some small percentage of individuals who may be on the rolls who almost may have an alcohol or drug abuse problem, and there is a code that says they may not be eligible. Would I rather them not get it, the law says.

Of course we want to follow the law, but I would rather there is due process in making sure that they are not eligible; I would err on the side of due process.

I would just raise for balance that you certainly do due diligence in determining whether people are eligible in the first instance; and I would say to the Inspector General, you are right to investigate and make sure we are following the law, but I would also call into question if we are indeed doing due diligence and persistence in making sure that people who are trying to get assistance, who need it desperately in that area.

Let me just ask a question of Mr. Schaeffer.

Mr. Schaeffer, the Commissioner feels that the recommendations you have made have all been followed. Do you share his evaluation that they have all been followed and timely?

Mr. SCHAEFFER. We certainly think that some of the recommendations have been followed and implemented timely. Whether they have all been actually implemented successfully, we haven't done any follow-up work to verify that and we have planned audit work that we will start next calendar year. We will take a look at the work that was actually done in this area and make an independent evaluation of whether or not everything that needed to be done was in fact done.

Mrs. CLAYTON. How do you see the missing DI codes affecting SSA's ability to profile beneficiaries in the disability review?

Mr. SCHAEFFER. We did a companion report to this. In that companion report we identified, based on SSA's records, over a million codes of the 11 million people that were on the SSR, Supplemental Security Record, or the Master Beneficiary Record having a disability as having incorrect diagnostic codes or missing the codes.

What that impacts is that when you pass a piece of legislation like this legislation here, if you go to implement that legislation, in this case remove people from the rolls, if that code isn't correct you may expend resources examining somebody that you shouldn't be examining because they don't have a drug and alcohol problem. If they are identified that way, then you looked at a case that you didn't need to look at and that uses administrative resources. On the other hand, if it is not coded correctly and they do have a problem, then you are not even looking at that one to begin with.

That is what we see as the problem. That if you are going to expend the resources to code the records with the diagnostic code, then you want to make sure that those diagnostic codes are correct. Because at some point later on you are going to use that information to profile the type of continuing disability review that you are going to do. Obviously, depending upon the type of disability a person has, the person may get a mailer—they are just sent a mailer if there is little likelihood that they are going to improve—or you may ask them to come in and present additional evidence on their continuing disability review.

There could be errors on both sides. You could require somebody to come in who is hopelessly disabled, and that is not a good use of administrative resources. On the other hand, if you have a person that is receiving a mailer but their disability is of the type that you should be conducting a full CDR, then you are missing an opportunity to perhaps remove somebody from the rolls who has improved.

In our opinion, it is critical for the agency to do what is necessary to ensure that its diagnostic codes are encoded correctly at the time they are entered into the system.

Mrs. CLAYTON. Does that require additional resources for capacity and design for the coding? I am assuming that 209,374 cases had to have some coding program, some program with a coding assistance to identify them; and I am assuming the new law requires a distinction of being able to distinguish between those who would have this problem; and that wouldn't be readily available if the law wasn't there before.

Mr. SCHAEFFER. In this particular case, I would say it was a matter of a compliance for certain types of the cases. When the cases were originally established, they didn't have an indicator for DAA. They used a different code. But when they made their selection of which ones they were going to look at, they did not use the only code that was available. So that the 20,000 cases that we selected to look at, we selected those cases that we thought were most problematic, which included not only the criteria that the agency used but some additional information that was already in their database that they could have used and if they would have used would have caused those cases to be looked at, too.

The 20,000, it was really only 10 percent of the 200,000 cases that they did, in fact, look at. In that instance, that information was available to them at the time that they made their selection criteria.

Chairman NUSSLE. Mr. Collins, do you have any questions?

Mr. COLLINS. In the overall number of people that you examined the disability, how did you determine the 209,000 people? What was in their record that would make you look at those specific people? How would you pull 209,000 out of how many million you have that are drawing?

Mr. NIBALI. We pulled them based on the indicator on the system that said DAA was material to their finding of disability. That was what the law asked for us to review, and that's what we reviewed.

I think what Mr. Schaeffer was just explaining is that the vast majority of cases that needed to be reviewed were correctly identified on the system. We pulled them. We worked them. I told you what the results were, that a significant number of people came off the rolls.

What the issue that the Inspector General raised is about this potential additional 10 percent of cases that did not have that code in this computer system but had some other indicators that DAA was present in that case, and their suggestion was that we should look at those cases as well.

I would just explain, kind of in relation to what Mrs. Clayton was saying, and I appreciate your acknowledgment of what it takes to work these cases, is that it's a fairly devastating thing—I would

say a very devastating thing—for people to get these notices that your benefits are being terminated, you have to come in and file. We try to be as judicious as possible about what cases we select to subject to that kind of review, and we selected the cases that our system told us with 90 plus percent, even accepting these 20,000 as potentials, 90 plus percent identified very well on our system. The question was, should we have done these additional cases from the beginning as well? We have done them now.

Mr. COLLINS. How did you get into this report, Mr. Huse?

Mr. HUSE. We plan our audit work through several channels. Anytime the Congress passes new legislation that requires compliance by the agency, it is appropriate for us as the oversight entity in the Social Security Administration to take a look at implementation, and that was one driver here.

The other was we get a lot of anecdotal and allegation information that comes to us that indicated that perhaps the universe was not as wide as it could have been in the implementation of this law, which also gets into the decision to put this into our audit work plan. When we do that, though, we communicate the audit work plan to the agency so there is no surprise about what we're going to take a look at. But that is how it is done.

Mr. COLLINS. Very good. Thank you, Mr. Chairman.

Chairman NUSSLE. Thank you.

I would like to go one step further now, if I may. As I understand it, in the 1972 law, in order for a person who has the substance abuse issue to receive a benefit, they are also supposed to have a representative payee. What has continued—

Mr. NIBALI. If I may.

Chairman NUSSLE. Yes.

Mr. NIBALI. Under the law, they have to have a rep payee if they are determined to be incapable of handling their own affairs, not just that they are DAA.

Chairman NUSSLE. I guess what I'm getting at here is what is the current status of that law with regard to people who are partially—because, of course, now no one is supposed to be on the benefit that is DA or A. So someone who has partial substance abuse issues, what is the obligation for SSA currently to have rep payees for these beneficiaries?

Mr. NIBALI. SSA field office personnel follow the current law and some rather extensive guidelines that we have been issuing over the years. That requirement is that when DAA—you are absolutely correct. Obviously, we do not pay people on the basis of DAA, but DAA can still be present in other cases for other disabilities. When that is the case, we ask the field office to make a determination as to the capability of that person to handle their own financial affairs to receive those benefits. That determination is made based on interviews with the individuals involved and often involves a referral for a doctor to make an assessment of the capability of that individual to handle their own benefits. Having made that capability determination, if the determination is that the person should not and is not able to handle their own affairs, then a representative payee is selected.

Actually, the 1994 legislation set up a specific set of criteria right in the legislation for the preferred order of rep payees for individ-

uals with DAA conditions. Those start off generally with organizations as rep payees. And organizations particularly that are used to dealing with individuals like that, they can be private, they can be Federal or State or local kinds of organizations. But actually, in terms of the DAA rep payees, the family members actually come far down on that list versus where they come for the normal rep payee positions. That is generally because these are extremely stressful situations for individual family members to try to handle the financial affairs of individuals with drug and alcohol abuse, and I think everyone pretty much agrees that there are better results when you have an organization that is capable of handling that.

Chairman NUSSLE. Do you happen to know how many current beneficiaries are in a situation like that where they have a rep payee that have some type of substance abuse?

Mr. NIBALI. Yes, I do.

Chairman NUSSLE. That is fine. While they are looking at that, let me ask you another question.

Mr. NIBALI. I don't have the exact number. Would you please let us provide that for the record?

Chairman NUSSLE. Do you have a percent? I am just interested in a ballpark.

Mr. NIBALI. What we know is it is the minority of individuals that have a rep payee.

Chairman NUSSLE. What is the obligation on the part of SSA to encourage, demand, instruct treatment with regard to the moneys that have been provided through SSA for people who are having a substance abuse issue?

Mr. NIBALI. We very much understand that obligation. That is required again by the legislation. When we do find individuals incapable of handling their own affairs, we make referral of those individuals for services. So that is a routine part of what is done when we are in that process of dealing with DAA people.

Chairman NUSSLE. But it is primarily those who are also determined to require a rep payee. In other words, it is rare for there to be a situation where someone is requiring—where you have directed treatment at the same point that they don't have a rep payee? In other words, they go hand in hand. In order for you to get treatment, you also have a rep payee. Is that basically what you are telling us?

Mr. NIBALI. I have been corrected. We refer everyone.

Chairman NUSSLE. For treatment?

Mr. NIBALI. Yes, for treatment.

Chairman NUSSLE. But not all of them will have a rep payee?

Mr. NIBALI. No, only those who will then be determined to be incapable of handling their own affairs.

Chairman NUSSLE. I realize you've got many issues here, but are you also able to determine, when you say all of them are directed, all of them are instructed, is there a follow-up process to determine whether or not anything has occurred with regard to treatment?

Mr. NIBALI. Under the 1994 legislation, you may recall there was a fairly extensive referral and monitoring activity set up. That is no longer in existence under the 1996 legislation. We have annual accounting from rep payees for that portion of the individuals we

are talking about. They have to do annual reporting to us so that we have some idea of what is going on with that piece of it. But generally when the referrals are made for treatment for these individuals, we do not have the mandate or provided the resources to do the kind of follow-up that was under the 1994 legislation.

Chairman NUSSLE. Mr. Huse, the two questions I have for you is, first of all, and I believe you touched on it briefly with Mr. Collins, but you are planning a follow-up audit with regard to or follow-up with regard to the recommendations that have been made? And I assume that requires or suggests another report that you are going to come out with, is that correct?

Mr. HUSE. Yes, Mr. Chairman, that is in our audit plan for next year.

Chairman NUSSLE. What will that focus on? Do you have a determination yet of what that will primarily focus on?

Mr. HUSE. It will go to the actual discharge of these recommendations and whether we saw what we suggested was done. Basically, that is how we do it.

Chairman NUSSLE. I guess part of what I am getting at is I am wondering if some type of oversight with regard to rep payees is necessary. Has that been something that the IG's office has looked into at all?

Mr. HUSE. In other hearings this year, we have testified on our rep payee system and rep payee issues. This is a piece of a much greater issue, but the answer is yes, and we continue to do that. We have quite a bit of work ongoing with the agency to address that, too. That I'm sure Mr. Nibali could speak to.

Chairman NUSSLE. Then the only other question I had is in regard to back benefits and prosecution or some type of attempt to reimburse the government and the SSA for benefits that have been paid erroneously. I preface this, as I did the last time at our food stamp hearing by suggesting—I prosecuted for a few years and have some brief understanding of the difficulty in this area with regard to benefits, particularly welfare benefits and trying to recoup them. But I am just wondering what system, if any, is in place for that purpose, in trying to get back any benefits that were paid erroneously.

Mr. NIBALI. Obviously, we have no desire to pay any benefits that should not have been paid and, where possible, would have liked to have recovered them. What we are dealing with here are very specific legal protections for individuals, and it is basically a matter of due process. Because they were receiving benefits, because we had not given them a timely notice as we did with the original individuals, et cetera, we were not able to go back and eliminate those benefits until they had had their chance for a review and a hearing and therefore could only terminate the benefits from the time we made the decision. And that was discussed at great lengths with our general counsel. That was the result of his research, that we were precluded from going back and recapturing any of those benefits.

Chairman NUSSLE. I realize that is in the initial phase, when you made the 68,000 no response, that is obvious, as well as the due process of those 131,000. But what about the—and I am going

to get the number wrong, I am sure—but 13,000 that were identified through—or was it 1,300? But it was that last category—

Mr. NIBALI. The 339.

Chairman NUSSLE. Is that what it was?

Mr. NIBALI. Yes.

Chairman NUSSLE. What about in those particular cases, is there a follow-up that can be done there in regard to back benefits?

Mr. NIBALI. No, we would be precluded the same way from recapturing those back benefits.

Chairman NUSSLE. Mrs. Clayton, do you have any follow-up questions?

Mrs. CLAYTON. I guess once a prosecutor, always a prosecutor.

Chairman NUSSLE. Well, I had to ask the question.

Mrs. CLAYTON. Following that line of questioning, is this a different procedure than it is for others? Again, our congressional experience in our constituent work wherein inadvertently or by some error if people have been overpaid based on a rate they shouldn't have been paid, they have had to pay it back, is there a general rule about who is responsible as to whether you have to pay it back?

I know in this case—I have been reading the background—that unless there was notice—in fact, one of the questions I guess I was prepared to ask you if you hadn't offered the information, given the numbers, if you hadn't given them due notice, you couldn't get the moneys back. But you gave them notice. In fact, you have terminated them. Is there a general principle in the Social Security Administration about reimbursement when you find that there has been an omission or inadvertence of paying too much on a rate, perhaps in other programs that are different from this? Is this a unique piece here that you have to give notice?

Mr. NIBALI. It is a little unique. What we are dealing with are specific protections that have come out from court decisions, particularly related to individuals already receiving benefits. And this is particularly in the SSI part of the program where this stems from—they are called Goldberg-Kelly rights. We need to give people their opportunity to a hearing before those benefits can be stopped.

I believe—one answer to the general question is certainly if individuals have been overpaid in any way under Social Security, there are many times where we can and do not only attempt but do in fact collect benefits overpaid. But there are general—

Mrs. CLAYTON. Even if it is the administration's responsibility?

Mr. NIBALI. Yes. Generally, the rule is if the person was not at fault and they are unable to repay us, then it is generally excluded from trying to collect it. But if those conditions don't exist, then we do make an effort to recapture the benefits.

Chairman NUSSLE. Certainly that is part of what I was—I would certainly understand that part of the issue here is ability to repay. I am not discounting that at all. But when there was—my question went more to, and I think Mrs. Clayton zeroed in on it much better than I was able to, and that is, if general notice is given to those 209,000 people, then even after adjudication and receiving those monthly checks—let's say notice was given in, you said January 1996, I believe you said?

Mr. NIBALI. I think around June or so.

Chairman NUSSLE. OK, June 1996, if determination, final adjudication is made in December that they were ineligible, then what happens to the June, the July, the August, September, October and November payments?

Mr. NIBALI. In that case, sir, actually by the law itself, their benefits continued until January 1, 1997. That was the earliest we cut anybody's benefits off.

Chairman NUSSLE. So that was part of the issue there. So none of those would have gone beyond that January, 1997, date?

Mr. NIBALI. They could not have been terminated sooner than that.

Chairman NUSSLE. I appreciate you making that clear.

Any other questions from members of the committee?

Again, I want to thank you and compliment you on the teamwork that it appears that you have put together in order to accomplish this. As I said when I opened, I am sure that there will be frustration in just the amount of time it takes, but I think you have made it clear some of the issues and why that occurred.

I appreciate your testimony today. If there is no other business, then we will adjourn. Thank you.

[Whereupon, at 2:15 p.m., the Task Force was adjourned.]

